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## CRIMINAL JURISPRUDENCE.

CRIMINAL JURISPRUDENCE, in general, seems to attract but little thorough investigation. Indeed, we may say, excepting capital punishment and prison discipline, no branch of this most essential department of governmental administration meets with half the inquiry and discussion which its importance demands. All seem to agree that those laws which deprive an offender of liberty and property, and otherwise inflict chastisement short of death, are founded on a just basis, supported by a discreet policy, and therefore need not be disturbed. Lawyers, themselves, who are learned in these matters, who wield the administration of penal law, and who are expected to examine narrowly into its origin, foundation, end and aim, appear satisfied in knowing what the law is as it is enacted by the legislators, and established by the decisions of courts through centuries past. It is not denied that much improvement has been made in the course of several centuries in Criminal Jurisprudence,—crimes in old countries are better defined, and punishments more justly adapted to the degrees of guilt, and in the organizations of colonial and state governments in the new world, reform has been extended still further. But at present, and for a long period past, there neither is nor has been any great improvement suggested and pressed with energy, except the abolition of the gallows and the better internal regulation of our penitentiary system.

Now, while we would urge these reforms with all the zeal in our power, we would also extend the inquiry to the very foundation of the criminal code, investigate the origin of crimes, the right of society to punish, the responsibility of the offender, and the efficacy of the present code. We shall consider:

- I. What constitutes crime?
- II. Obligation and accountability.
- III. Why does man violate law?
- IV. Who are responsible?

I. *What is crime?* In the common acceptation of the term, it is the violation of written law. We shall not, however, thus restrict it; for every act should be deemed criminal which perils, or in any manner diminishes public or private happiness, whether it be prescribed by statute or not. In this view, it will be perceived before this article shall be concluded, that many of the most dangerous men that go "unwhipped of justice," strut largely through the world, greeted by the commendations of an undiscerning public. An act is wrong in proportion to the extent of its injurious influence; and that person is culpable in proportion to the evil effect of his conduct. The evil resulting from a wrong is greater or less, according as the public estimation of the one committing it is good or bad. The greater the influence and consequence of an individual the more destructive is his evil example. Hence, the instances are multitudinous, wherein a vice which is winked at by the public is, when indulged by a person of respectability, vastly more heinous than one of the most enormous outrages committed by one who is shunned by his neighbours and despised for his depravity. But this principle will be more fully discussed under another head.

The lawyers say that crime is either *malum in se*, or *malum prohibitum*,—that is, a crime because wrong in itself, or because prohibited by law,—which last, nevertheless, would not be wrong had it not been prohibited by positive statute. No acts are declared criminal by our courts except those made so by legislative enactment. We say that *all* crime is *malum in se*, and the legislature has no right to declare any act criminal, and punish for it, which is not evil in itself. No one should ever be compelled to suffer a penalty for any act which is not criminal by the immutable law of natural right and wrong administered *in foro conscientiae*. Why? Because, 1st, the conscience and the penal statute should not clash,—for if they do, that which is actually wrong loses its due enormity in the public consideration, when ranked with that which is not wrong; 2d. because punishment loses its efficacy when administered for an act that is right by the law of nature.

Statutes that make crimes are not laws, for they are not declaratory. We have ceased to dignify any enactment by the title of LAW whose essence is not a principle co-existent with mind. We have looked long enough to the statute book for the standard of right and wrong, of guilt and innocence. We should look to a higher, more authentic and authoritative standard—the code of God and Nature. Here, and only here, do we find LAWS—laws which are binding upon all, and whose obedience is prompted by the sense of right and wrong seated in every well balanced and thoroughly disciplined mind.

All crimes, then, are *mala in se*; and no act is the less culpable

ble for being declared criminal by the legislature. Law enjoins upon every intelligent being the performance of those acts which contribute to the highest public or private good, and the non-performance of all acts that occasion injury. Crimes, therefore, are of omission or commission—failing to do our duty, or doing that which we are not bound to perform.

Crimes are divided by the standard authors into private and public wrongs. There is no reason for this distinction. Every wrong is both private and public. A man fires a great city—the commercial emporium of a nation, for instance, and it is consumed. This would be pronounced a public wrong;—so it is—but also a wrong to every individual of the city, nation and world. Take a case on the other extreme. A libel is published, and the reputation of a worthy citizen destroyed. This is termed both a public and private wrong; so it is,—but the reason given for classing it with public wrongs, to wit, “that it tends to a breach of the peace by provoking the person libelled to break it,”\* is frivolous in the extreme; because the doubtful tendency of a crime ought not to be given as the reason, where there are direct and weighty reasons. They may be thus stated.

Every person has an interest in his well-being and well-doing, and every act that diminishes his influence, or weakens his energies is a public injury. All moral law is public law, binding upon all, universal, unchangeable and eternal. It is sovereign and condemns or justifies every act that man can perform. Every act violative of this law is a public and private wrong—a crime destructive of public good. Enough has been said for our present purpose on the nature of crime.

II. *Obligation and accountability.* All law emanates from God. He is the sole lawgiver of the universe, and all rules of conduct not prescribed by Him are without any binding obligation; though while man continues uncandid and imperfect, an occasional statute wrong in itself must be observed until it can be repealed. The courts ought to acknowledge the authority of the law over all, so that every citizen can appeal to their wisdom to test the validity of a statute, the truth of which he doubts.

Law is of but two kinds,—that of the material, and that of the spiritual world—or the law of matter and the law of mind. Spiritual or moral law proceeds from God, the mighty Centre from which all mind is evolved, and to which it again returns. Mind thus dispatched to quicken matter and tabernacle for a season in the flesh—thus constituting MAN—is commissioned with powers plenipotentary and free will to attain a certain destiny upward, or a certain destiny downward, according as it obeys or

\*Blackstone, B. 2, page 126.

disobeys the laws which control its destiny. The reward, or rather, consequence of obedience, is progress in happiness and greatness; but the penalty of disobedience is misery and degradation.

But whence results the obligation of man to choose wisely and conform to the divine laws of his nature?

1. Man is created with wants. These wants are, food and raiment for the body, instruction and development for the mind. Hence, there must be physical labour to supply the former and strengthen the frame, and mental labour to obtain the latter.

2. Man, then, is created an active being, whose welfare demands constant, persevering labour, either of mind or body. But he cannot make his labour available in either case without the co-operation and assistance of his fellow: therefore,

3. Man was made for society, or the intercourse of his species. Hence we see that we have a social character, the foundation of which is the affections and attachments which, rightly directed, afford us much of our enjoyment. They cause us to pity the distressed, to be pained at the misery of others, to rejoice in their prosperity, and to expect from them the assistance we need. We are, first, infants, and need the attention of parents, secondly, youth, and want instructors, and finally, men, and must enjoy the society of our fellow men. Hence,

4. Every one has duties to discharge for his own and the public good. The prosperity of one is made the interest of all, and the greatest good of all is the benefit of each one. Therefore,

5. The conduct of one influences every other one. No one is without this influence. It is potent under the paternal roof, in the halls of education, and in the very place where human beings come in contact with each other. A parent fails in properly training a child, and an injury which no sacrifice can compensate is done to that child and to the whole race. A teacher instructs his pupils erroneously and the whole community is outraged. The conduct of every person, the influence of which degrades himself and others, and occasions misery, is a loathsome ulcer upon the social body. It is criminal and destructive to his race.

Hence our obligations, which we are bound to discharge, or encounter the sanctions of those laws which prescribe them. There is a penalty to every law, for it is essential to its existence. It is administered by Him who enacted the law, or rather so organized our whole being that its best interests result from conformity to the laws of its constitution. We cannot violate any rule of right without wronging our fellow. The least injury we inflict upon our own persons is also a public injury.

From our obligations springs our accountability for their violation. Let not accountability be confounded with guilt. Ac-



countability is co-extensive with criminality. Criminality is co-extensive with wrong. Every law has a penalty for its violation which is administered regardless of guilt. Guilt is seated in the conscience of the criminal. There is no guilt where the moral consciousness of the wrong-doer does not remind and reprove him of the crime he has committed. Blame is co-extensive with guilt. How can a man be blamed for doing that which he did not know to be wrong? And how can a criminal be blamed for doing that which he had not moral power to resist? But this leads into a wide field.

He who offends not knowing the law nor the enormity of the offence is not guilty. Guilt results from a violated conscience, and conscience is active in convicting the offender in proportion as it is enlightened. The difference then between guilt and accountability is, that the former is declared by conscience, while the latter is not,—the former is limited, while the latter is co-extensive with transgression. Wherever there is guilt the penalty is sternly and certainly administered; 1, in the detention of good or the infliction of physical suffering. 2, in mental pain, occasioned by the conviction of, and sorrow for the crime. In those violations, for which the wrong-doer is accountable but not blameable, the punishment is not so certain; though in most instances it is surely inflicted. Some laws, disobeyed unwittingly, inflict ill-health, broken constitutions, and various woes, besides, in some instances, transmitting the infliction to posterity. These punishments are necessary to stir up the attention of mankind to their interests, and force an energetic labouring for truth and progress. Some crimes, however, do not appear to be visited with any penalty. For instance, a parent may commit the greatest possible outrage upon a child—that of neglecting its education—and not be punished for the crime; as in case of the death of the parent before witnessing the consequent debasement and misery of the child, or so great a want of knowledge as never to be aware of the gross neglect of duty. But this may be asserted as a general rule, to wit: where punishment would result in any good it is invariably administered.\*

But to whom is man accountable? Of course he is first of all answerable to the Lawgiver who has armed all his laws with the sword of justice, which invariably flies from its scabbard wherever knowledge preceded disobedience, and in such other cases where good would arise from punishment. The highest benevolence is the only foundation of punishment. No penalty is ever inflicted by the Great Author of all law except for a benevolent purpose. What, then, are the suggestions of benevo-

\* Let the reader withhold his criticisms on the views here stated until he sees the second part of this article which will consider their practical application.

lence on this subject? They are, 1. That benefit shall accrue to the wrong-doer. 2. That the community shall be served in the infliction. But this subject will come up hereafter. We challenge any one to show an instance of natural punishment for violated law where reformation alone is not the object. Therefore, the infliction will be found invariable where there is guilt—that is, self-consciousness of wrong, and in all other cases where any good would result from the penalty. What signify the ten thousand forms of suffering beheld around us? They all result from crime—and how do they awake the sympathy of good men, and how zealous are they to promote obedience to those laws which preside over human happiness! Hence, the use, and the sole use of punishment—to secure obedience.

Thus we discover the basis of accountability. Accountability may be said to be, 1, Proper—that is, where the wrong-doer is a criminal in our sense of the term, is self-conscious of wrong and the punitive sentiment is active, and where the design is, that experience should be a means of reformation in cases of ignorance of law. 2, Common—that is, where the community positively suffers for the disobedience of the offender. We have, then, proper accountability and common accountability. The latter is equally just with the former; because the whole community has done much in educating the vicious character. It has cherished those remote and immediate influences which lead to violations of law. Its character is too debased, and wants that elevated, high-toned sentiment which will never fail to nurture purity of heart in every individual. Hence, it is just that the people should share the accountability and punishment of every crime.

It is said in the books that every offender is accountable to society. This we believe an error, and we take this occasion of correcting it. If we can be satisfied that one criminal is answerable to another, we will endorse the common doctrine on this subject. Is not society burning with constant guilt? Is she not an old and perpetual offender? If she were perfect every individual would be perfect. Which is superior, society or the individual? Society is, of course, and owes the first duty to each member. If she would fulfil her obligations to the individual, he would fulfil his duty to the community. But she commits the first offence, in consequence of which her members become offenders. What truth, then, is there in the common doctrine that man is accountable to society? It is all nonsense. Society and the individual are alike accountable to one Perfect Judge, who is the author of all and over all. It is time the law were dignified and made honourable. To this end we must trace it to its true source.

## III. Let us now ask the question,

*Why does man violate law?*

We have the answer at once,—because he is depraved. This is true—man is depraved, that is, his evil nature is predominant—too strong for the control of the moral forces. Naturally the whole man is good; he was pronounced so by his Creator. When confined to its proper sphere, every faculty, sentiment, passion, emotion and susceptibility is good and pure. But when those faculties which were designed to be subordinate, become too strong for the control of the superior powers, the man is depraved, the law is violated, and unhappiness abounds. This is the secret of all moral wrong.

An inquiry here presents itself,—by what means is man depraved? How do the superior faculties lose their sovereignty? This is the great problem for society to solve. It lies at the basis of crime and criminal jurisprudence. It must be solved before obedience can be secured and evil overcome. Unfortunately, it has been heretofore overlooked. The legislator and lawyer have not attempted to lift the veil and expose the dark scene behind. They have been content to regard only the crime and punish the wrong-doer. They wait until the individual becomes totally lost to all sense of right—until he has destroyed his victim, and then they propose to rectify or redress irreparable outrages, by opening a volley of vengeance upon the culprit. Mistaken policy! Blindness to human welfare and the effectual means of promoting it! The only true course is to go back—search the causes of crime and remove them;—then will protection be effectual and iniquity destroyed.

What, then, are the causes? The first, and in fact the cause of causes is: 1. Want of mental and moral discipline. We feel inadequate to suitably enforce the solemn truth, that ignorance is the mother of all the moral wrong and outrage with which the earth is filled. We mean by ignorance, as used here, deficiency of mental and moral culture. Man is free. He acts according to his will. Perverted tastes force the will to choose that which will gratify them. Impure desires drive and goad the nobler faculties into terms. The passions, too long indulged, too little restrained, and too inveterate for the better man, trample down with violence every rising sentiment of goodness. The animality is in the ascendant, and the man is victimized.

Man being an active being and a subject of development, he will, in the first place, act—whether for good or for evil, he will, he *must* act—there is no alternative,—and, in the second place, become developed, either in his bestial nature, so as to lose the superiority of the divine attributes of his manhood, or the latter will come forth in their beauty, strength and sublimity, and the passions will move in their appropriate sphere. In the former

case, he is a dangerous violator of all law, and of himself he cannot change his course,—while in the latter case, he is every thing, perhaps, that man or God desires. Why is the man of correct and thorough discipline a good man? The reasons are obvious. 1. He knows his origin, and desires to prove himself worthy of it. 2. He sees the world of glorious objects around him, and he is lifted up by all his predominant faculties, to inquire into the causes of things, and enjoy the true, the beautiful and the grand, which afford him a constant, exhaustless source of happiness. 3. He appreciates himself as an intellectual and moral being, and the greatness of his destiny. He knows what means will elevate him more and more in the mighty scale of being, and pursues them with energy. He knows also the causes of human debasement, and avoids them as he would a loathsome disease. 4. The principles of moral rectitude are inscribed indelibly upon his heart, and their spirit pervades his whole being, so that he can no more do wrong than the one of directly opposite character can do right. 5. His enjoyment is in virtue, in improvement, in knowledge, and he strides on from one elevation to another, like a true, heaven-bound being. He is constantly busy. He cannot be idle. There is so much to study and admire about him, that he feels guilty of a wrong if a moment of time be wasted or misemployed. Hence we have a faint view of the rock of truth, the citadel of virtue, the temple of happiness, and the bulwark against crime and sorrow. The antithesis of this character is your undisciplined, thoughtless victim of passion, lust, and vicious impulses. He knows not whence he came, why he is here, or whither he is tending. The world about him is a blank, and he sees not enough to excite his wonder. He knows not the meaning of virtue, never dreamed of elevating himself, and enjoys nothing that is pure. He knows no happiness beyond the indulgence of his passions, and the brawling, debasing company of persons like himself. His countenance loses every mark of manhood, his eye its brightness, and his whole person becomes animalized.

These are extreme cases. Between them there is every diversity of character. The principle, however, by which good and evil are wrought is the same in all cases.

Perhaps a few figures showing the state of education among the penitentiary convicts, will not be out of place here. The Rev. James Brown, chaplain of Norwich Castle, Norfolk, England, concerning whom the London Prison Discipline Society says, "his accurate and extensive acquaintance with the condition of the poor at large, and his unwearied zeal in the discharge of his important duties, confer peculiar value on his judgment," says: "Every prisoner committed to the Castle, is examined by me as to his moral and religious knowledge, habits, etc.; the result of

these examinations shows a very remarkable correspondence between ignorance and crime. That ignorance is productive of crime, I have ever been convinced; but nothing can so fully confirm that conviction as an intimate knowledge of the inmates of a prison. From January 1825, to March 1826, four hundred prisoners came under my examination; of these, one hundred and seventy-three could neither read nor write; twenty-eight merely knew the alphabet; forty-nine could read very imperfectly, so as not to be able to obtain any information by it; fifty-one could read only; and ninety-nine could read and write." Of the twelve hundred and eighty-seven prisoners in the Eastern Penitentiary of Pennsylvania, between 1820 and 1840, six hundred and ninety-two could not read and write. Of the four hundred and seventy-six persons tried at the Assizes and Sessions of the county and city of Manchester, three hundred and thirty could not read and write. Of all the convictions in the city of London, in 1842, but three of every twenty-two could merely read; but two of the whole possessed a good common education, and but one was well educated. In Prussia, after fourteen years, since the establishment of the common school system, paupers and criminals had decreased forty-one per cent.! In 1842, the chaplain of the Connecticut prison said, "of all the convicts received at this prison, no one has ever had a liberal education, or belonged to either of the liberal professions." About two-thirds were unable to read and write. Of the two hundred and twenty-eight sent to Auburn in 1842, one hundred and seventy-two could not read and write. Of the eight hundred and sixty-one male convicts at Sing Sing, in November, 1843, three hundred and thirty-five could not read and write. Of the seventy-three female convicts, fifty-one could not read and write. These items from New York can be more fully appreciated by taking into the account the proportion of those in this condition of ignorance to the whole population. According to the last census, the population of New York was 2,428,921, and the number of those who could not read and write was 44,453; being one for every fifty-five persons! The chaplain of the prison at Concord, N. H., says, in his report for 1844, that the "larger proportion of the convicts were destitute of early moral culture." Of the seventeen hundred and seventy-eight in the Eastern Penitentiary of Pennsylvania, in 1844, nine hundred could not read and write.

2. Another fruitful source of crime is intemperance. The use of intoxicating drinks, whether moderately or immoderately, is brutalizing in its influence. It excites the animal at the expense of the spiritual, and though many may drink temperately for a long time and not become bad men, yet it is certain they will not improve as they would have done had the cup been totally abandoned. The chaplain last quoted says also, "more than half have

committed crimes under the influence of intemperance." Of sixty in the Western Penitentiary of Pennsylvania in 1844, forty-one were intemperate and eleven were moderate drinkers. Of the twelve hundred and eighty-seven convicts in the Eastern Penitentiary of Pennsylvania, between 1829 and 1840, nine hundred were drunkards, and one hundred and four intemperate. From one ward in Philadelphia, one hundred and forty-six were sent to the City Prison in 1841; of whom, one hundred and twelve were drunkards and thirty-eight occasionally drunk. In the cells occupied by women, the matron said that not more than one in thirty was temperate. The general opinion is, that nine-tenths of all brought to the city prison violated the laws, either directly or indirectly, through the influence of intemperance.

3. A third cause of crime is destitution. It is known that most of our convicts have been doomed to a drear, dismal, disheartening, soul-killing poverty. That stage of destitution which borders on starvation is not favourable to virtue. Neither is that condition of wealth beyond an ample competency favourable to the highest mental and moral good. Either extreme is dangerous. The crimes of the rich are of such a nature and so effectually cloaked, that they are not brought before the courts; while those of the poor are made the special object of public vengeance. Many individuals commence life with laudable views, and an earnest desire to do well. They begin the contest with obstacles, disappointments and adversity, and after, perhaps, years of toil and difficulty their patience is exhausted, their energies broken, and after a period of gloom, doubt and agony, lapse into a state of apathy and indifference. The crisis is passed—their elevated views and high aspirations are gone—all apparent motive to virtuous activity is destroyed and the spirit is fallen. They were, perhaps, too frank and honest to cope with a fraudulent world, or, perhaps, not constituted for undertaking and carrying out enterprises with success. They met with no favour from their fellows, but rather were jostled from side to side, by those with whom they came in contact. But the struggle is over—a revolution is now taking place—the nobler sentiments are gradually sinking beneath the rising tumult of the passions. Evil associations are formed, and gradual progress made in crime. The brothel and the prison would recount many a tale that would stir our pity were they interrogated.

Where the most poverty is there is the most crime to supply the demands of nature. Her stricken sons look upon the overflowing abundance of the land, see millions squandered upon nothing, while they are starving, unable to supply themselves, and uncared for by the monied spendthrifts about them. They resolve, after a severe struggle with themselves, to take that



to satisfy their wants which was denied them, first by the injustice of others, and finally by cold selfishness, wherever it can be found.\* They choose the dread alternative, and the result is a felon's brand and a convict's cell. Let us pause before we decide who is most the sinner, or most sinned against, in these unhappy circumstances. This leads us to another cause of crime, to wit:

4. The injustice of those who pass as honest and respectable men. Instances are not rare of individuals who, having been kicked almost to death by others, turn upon society and revenge their own wrongs. No one will dispute for an instant that many well-disposed persons have been, as it were, driven into crime by the abuse of others. When an individual is made the prey of his fellows, it is very natural for him to redress his own wrongs by a course hostile to the interests of society. Many individuals are robbed of their strongest inducements to live,—such as reputation by the slander of others, and of property by the fraud of the avaricious. These must be men of the loftiest virtue to writhe in quietude under their oppressions.

5. Another fruitful cause of crime is, the general distrust of, and want of faith in each other that prevail among mankind. Those who have not reflected upon this subject will not at first see the force of this principle. We have some views on this point which, we think, will be deemed truthful.

1. Every person wants the credit of all the virtue he possesses.

2. When this is fully given, his confidence in, and appreciation of, virtue are increased. But,

3. When he is deprived of his just credit, and distrusted, he loses all confidence in virtue as of little consequence in the world, and he is apt to forsake her bright and beautiful path, and become, as society says he is, devoid of merit and unworthy of trust. Is not this a great and solemn truth?

4. Our sensitive men are thus easily operated upon, and an iniquitous society makes of them dishonest persons, when, had she been just, they would have been the best citizens.

5. When confidence is reposed in a man of spirit he feels himself a *man*—he is encouraged, and the conservative principle

\* The state of trade in Great Britain has materially influenced the number of committals to the House of Correction. This is shown by the statistics of the Preston House of Correction for 1841-2, and 1843-4; in the former period the number being 2,050 and in the latter 1,549; showing a diminution on the revival of trade of one-fourth.

From the report of the French minister of police for 1834, we learn that 5,844 accusations were submitted to the juries, of whom 5,520 were accused of theft.—Considering the ten thousand different modes in which the evil propensities of man are manifested we must regard this as an astonishing fact. It shows that before the people starve they will steal! It becomes, then, an interesting question to know the causes of poverty, and how far they are referable to the errors and injustice of society at large!



within him is elevated and strengthened. On the other hand, when he is distrusted he feels himself degraded, and every noble sentiment is weakened.

These propositions would admit of much amplification, which we cannot in this place enter into; but every one conversant with the philosophy of mind will readily admit their truth. How, then, can we truly estimate the influence of distrust and want of confidence between man and man in inducing dishonesty and crime!\*

6. The last cause of crime we shall mention is found in the immoral associations, cherished in the bosom of society, into which the young are enticed, and where they are seduced from the path of rectitude. It is well known that youth are not their own masters—that when they first go out into the world they have not that independence and self-control necessary to carry them safely through the temptations and trials incident to human life. Their character is not fixed—their habits are unsettled. On every hand are haunts of vice into which youth are more readily drawn than into the beautiful halls of virtue. Who support these unhallowed dens of depravity? Men—society. Over them the community has perfect control, and can either tolerate or abolish them. We need not specify them, for they are in the sight of all in their horrid aspect. The people look calmly upon them, well aware that youth are daily sacrificed on their unholy altars—that immortal minds are perverted, hopes blasted, virtue destroyed, and criminals manufactured to prey upon that very society that made them what they are. What follows? Why society arraigns the unfortunate objects of her handy-work before her tribunals, where she punishes them for the legitimate fruits of her own wrong! But we will not dwell here.

#### IV. *Who are responsible?*

From what has just been said, the reader is, doubtless, ready to conclude that, first of all, society is responsible for much of the

\*An example of injustice and distrust we have on reliable authority. It is customary, on discharging a convict, for the keeper to give him five dollars, and, generally, if he has been faithful, the contractor for whom he has laboured gives something more, to bear his expenses to his friends, or while searching for employment. A convict was discharged from the Ohio penitentiary—got five dollars from the keeper and went to the contractor, for whom he had worked faithfully, and earned a large amount more than he was obliged to, and from whom he expected a liberal present. The poor man presented his claim and gave satisfactory assurances that he earnestly intended to lead an honest life thereafter. Instead of sympathy and kindness, he met only contempt from the wealthy contractor, who drew his watch from his pocket, hung it up in his office and departed, leaving the injured man alone. The downcast unfortunate saw the design of his former employer—felt indignant at the outrage upon his manhood—departed—told others of the occurrence, who went to the office to be satisfied, and found the watch still hanging which the villainous contractor expected the discharged culprit would steal. Had he stolen it who will dare to call the offence as criminal as the treatment he received from the respectable man?

evil conduct of men. As before remarked, she owes the first duty to each individual. She is bound to supply all her helpless children with the means of superior development. Is this duty discharged? Let the lamentable ignorance and vice that abound answer. She is bound to guard the young against the snares that are publicly set by the vile for their ruin. Is this duty discharged? Let the haunts of drunkenness, profanity, gambling and whoredom that abound, answer. She is bound to assist the destitute, so that they will not be forced into crime by starvation. Is this duty discharged? Let the suffering men, women and children found in all our cities answer. She is bound to provide for the virtuous development of every child that is neglected and abused by its parents or guardians. Does she do this? Let the vicious boys that fill the streets of every city answer. How great, then, is the responsibility of society! All the duties here mentioned, save one, are due to the young and helpless. Can it be said, with the least shadow of truth, that they are blameable for the inevitable fruits of this neglect? They follow as effects follow causes, and none but society can control them. Society is alone guilty for the results of her own wrong.

2. Phrenologists would say that much crime results from a bad mental and moral organization. Who is chargeable with this? Here we might be led into a long disquisition, but we will be contented with a few plain truths. 1. The conduct of parents for a long period of time affects the organization of their children. 2. Much that is unfavourable is cherished by society. 3. Hence, another duty of the community to make greater exertions to remedy the defects of organization. 4. The deduction we would make from these positions is, that no one is blameable for the sort of cranium with which he is sent into the world.

3. Parents are responsible, who, knowing their duty, do it not to their offspring. We will not dwell upon this. How large a portion of our youth are neglected at home, let every person's observation answer.

4. We are all, each and every one of us, guilty, and therefore, responsible, to a greater or less extent. We all have influence, and every vice we indulge produces ten-fold more injury than one of our brightest virtues can counterbalance. From little vices spring enormous crimes. A folly in one begets a greater folly in another. He who pretends to the greatest purity and commands the most influence, is so much the more guilty for his vices. His example is powerful, and every indiscretion is seized upon by lower minds to justify their violent conduct. Our ministers of virtue and our open professors of piety are the most criminal persons in society, when they belie themselves. The profane man, who claims respectful consideration, and is high in the public regard, is often more guilty than an abandoned culprit

whom he abuses, and perhaps is instrumental in sending to the penitentiary. But a truce to this. Instead of feeling indignant and revengeful toward an arraigned offender, we should rather pity him, and lament our own vices which were instrumental in his downfall.

We are now prepared to speak of the justice of our criminal code.

5. *Gross injustice of our criminal jurisprudence.* A long discussion of this point is rendered unnecessary by what has been said. In looking into the causes of crime, and examining the responsibility of society and individuals, who, possessing ordinary benevolence, can endorse our present criminal code? It is doubtless better than that of most other nations, but the principles on which it is founded are the same. Let us look at these fundamental doctrines. 1. It is declared, as a ground of our mode of punishment, that every one who commits a crime has sufficient mind and moral consciousness of right and wrong to have prevented the crime; or at least the law says every one is responsible for his depravity to the full extent. Now, while we do not deny the responsibility of all, when they sin against knowledge and conscience, we do most positively pronounce the above expressed doctrine false, and, therefore, grossly unjust. What! is a man guilty for his neglect during the helpless period of infancy and youth? Equally false is the corollary from this principle, that the culprit deserves the punishment which society inflicts. 2. A second falsehood at the basis of criminal law is, that one culprit can chastise another for his crimes. This is not asserted by its framers and supporters, but it is in their philosophy. We have shown society to be culpable and *particeps criminis*; what right, then, has she to pour out her viols of wrath upon the head of a single offender? We have read somewhere—perhaps Geo. B. Cheever, D. D., the Goliath of capital punishment, can tell where—of a person charged with various high crimes, and led out to be stoned, whereupon a great personage remarked, "Let him that is without sin cast the first stone." There is more true philosophy in this remark than all the administrators of criminal law ever dreamed of. It declares in so many words that he who is guilty of sins, prejudicial in influence, has no right to accuse and punish a wrong-doer. 3. A third untruth, is, that society has a right to punish for the sake of terrifying others. What, destroy one man that others may take warning and flee from crime! Punish one for another's benefit! Rob one to give to another! And this, too, when the unfortunate man has been through all his life more "sinned against than sinning?" But, says some one, has not society a right to protect herself? Yes, certainly; but she has no right to do injustice for protection,—and, in fact, no wrong ever protected any community. Let

society protect herself by discharging her obligations. She and all her members would thus be effectually secured in all their rights.

From what has been said we feel authorized to pronounce the whole system of punishments, as at present administered, false and grossly unjust. But what would you do with dangerous men? We will satisfactorily answer this question in the next Journal and Review. This article is already too long.\*

### OBLIGATIONS OF LITERARY MEN.

For our present purpose we must include all who think and cultivate learning under the appellation of Literary Men. We propose in this paper to discuss the obligations and responsibilities of this class to the world, that some estimate may be formed of the extent to which they discharge their duty and fulfil their destiny. It becomes all who are zealous in the great cause of human progress to scan narrowly the grounds and means of intellectual and moral, political and social advancement, in order that they may know to what extent these means are applied, and what new efforts can be excited into effective action.

1. In the first place let us survey the work to be done, without which there is no hope of any permanent progress.

There are many zealous reformers in the land, some of whom are labouring advantageously, and all doing more or less good. Some contend that a grand and complete revolution must take place in all our social institutions before any thing of lasting benefit can be accomplished. The influence of this class is necessarily small, because there are few of the great mass prepared to second their efforts, or enter into their organizations. Their theory is too far beyond the focus of ordinary vision, and its spirit little harmonious with the spirit of the age. If they would overthrow a mountain in the shortest time, and at the least possible expense, they must begin at the base and undermine it, instead of at the middle, and therefore be compelled to work up hill and perform much hard labour the second time. Perhaps, however, if they are cautious in the selection of their associates, their efforts could not be exerted in a more effective sphere.

Others seek to promote advancement by grappling with certain isolated evils, and attempting to remove them. This is good

\* Further on this subject, see articles "Capital Punishment" and "Human Rights" of this number.

as far as it goes; but it strikes us that many of these commence too far ahead, and are too hasty in their zeal. If the people be induced to abandon an evil by any other means, save a conviction of moral duty, and such a consciousness as will not let them rest in its practice, the real benefit is not a tithe what it otherwise would be. A vice abandoned, simply because a popular cry is raised against it, is apt to be substituted for some other, perhaps not less injurious in its tendency.

Others, again, and these constitute the mass, have all their hopes centered in the triumph of a political party. Political truth abides somewhere, and is, indeed, essential to human happiness. The progress of this truth is rendered hardly perceptible because of the power of the host arrayed in constant and unwavering hostility. Something, however, is accomplished in the political arena.

Every class of reformers is doing something for the benefit of mankind, and the efforts of none of them are by no means to be despised. Actuated by a deep earnestness, the most ultra of them all stand in proud contrast with the thoughtless and selfish multitude who attempt to laugh at their zeal. Most of them, however, seem not to be aware of the conditions precedent, the preliminary work that must be done before the earth can be emparadised. They would take the full-grown man with all his iron prejudices, his false culture, or no culture at all, and mould him at once into the dignified, the spiritual and the intellectual. This cannot be done by the transforming power of any theory, or the inspiring influence of eloquence itself. The work must be commenced further back. The young mind must be taken in the early stage of its development, and surrounded with such influences and advantages as will bring it up toward the True and the Perfect.

Here we have a partial view of the condition precedent to all reform. The people must first be educated—properly and thoroughly educated. By this, and by this alone, can the most sanguine hopes of all philanthropists be realized. What is reform? It is such a change in certain courses of human conduct as is more consistent with the true well-being of mankind. A real reform is lasting—for, being effected from a thorough conviction of its necessity, and its benefits being tested, no power can cause a retrograde to the abuses overcome. Every reform is, to a greater or less extent, of a moral character. It appeals to the moral sense, the reason and the judgment of the people. Consequently, without a moral sense, without reason, and without judgment no advantageous change can be effected. And hence, the more refined this sense, the more cultivated the reason, and the sounder the judgment, the more readily is any beneficial

change produced. Therefore, the place of beginning is the mind,—prepare that, and every thing desirable will follow as truly as effect follows the cause.

Is there no reform needed?—has man attained his highest elevation?—can he no longer advance? Let not these questions be answered affirmatively as long as one vice is observed to mar the beauty of human life, one human being is living in ignorance, or pining in poverty in the midst of plenty, or one source of happiness beyond the reach of a single individual. The birthright of every one is knowledge, plenty and happiness, and with these all would share the good, the beautiful and the great. Mental and moral culture alone is adequate to remove vice and join man to God and his fellow by the uplifting power of love, which is a part of his nature. It is adequate to the production of plenty by retrenching useless prodigality, and providing a prudent foresight, as also by abolishing the deceits and frauds by which cold-blooded avarice tramples under foot the unsuspecting. It is, also, adequate to secure an abundant happiness to all, for with knowledge and plenty nothing is wanted to consummate human felicity, to enjoy the rich stores of intellectual and spiritual pleasure provided for all,—and this capacity is acquired by developing the faculties, susceptibilities, affections, and the taste for the sublime and the beautiful.

Let it not be said that few have the natural foundation for this development. The history of the world shows that there is no limit to be assigned to human progress. The advantages which a people have enjoyed have enabled them to master the world; and, on the other hand, the disadvantages under which they have laboured have made them the prey of the oppressor. Glance back through the course of centuries, and follow the Deesse of learning and refinement in her pilgrimage through the earth. Once her temple overlooked the Nile, the Great Desert and the seas,—anon she crossed the Hadriatic and presided in the Academy and the Grove,—centuries elapsed, and she removed her seat to the Seven Hills, where, wedded to Mars by war and conquest, she made Rome the mistress of the world,—again, the revolution of ages brought corruption and degradation to the brave, and barbarians to conquer and exterminate them, and the fair goddess was forced to escape to the mountains of Spain and the fastnesses of the Emerald Isle to await the dawning of more hopeful times. Where now is the Egyptian that built lake Mærus and erected the storm and time defying monuments?—Where the Grecian poet, sculptor, painter and philosopher?—Where the stern and dignified Roman?—Alas, they were, and their monuments testify to the elevating and ennobling power of education,—they are not, and their successors evince the degenerating power of error, ignorance and corruption. Who are



the master minds of Germany, France, England and America who are far in advance of all their illustrious predecessors in learning? They are but the brethren of those once savage hordes whose inroads upon China occasioned the great wall, and whose ancestors pushed across the Ural and the Volga, spread through all Europe, and, in the course of time, sacked and demolished the Imperial City. How different they from their brutal ancestors!—and what but development has caused the difference. Such is the omnipotence of education! If from such gross material it could produce a Leibnitz, a Goethe and a Schiller, a Bacon, a Shakspeare and a Howard, a Washington, a Franklin, a Jefferson and a Webster, what can it not do in time and properly applied, to elevate and ennoble the weakest of our race! We have no right to limit the power of development. Every son and daughter of Humanity can, in time, be made co-equal with our most brilliant minds in nobility and intellectual enjoyments.

Education has done all for human progress that has been done, and is the only means by which she will continue to advance. We repeat it, it is the only basis of permanent reform, and if half the zeal expended upon subtle theorising and secondary objects, and half the money expended foolishly were directed to the spread of universal and thorough education, a palpable and soul-cheering effect would be speedily produced.

In order to produce that thorough change in the moral tone of the people, which is indispensable to progress, mental discipline must be thorough. The tastes and desires of the people must be revolutionized. Much that is now loved must be hated, and many things, now neglected or despised, must be sought with earnestness, and cherished as the apple of the eye. Time must be economized by directing every effort intelligently, and money must be saved from trivial and debasing waste for the purpose of giving the mind expansion and employment. Man must be emancipated from servitude to his animality, and raised up into the full liberty of the spirit and the intellect. All his purposes and efforts must be directed to his own exaltation. He must constantly struggle against every failing, weakness and error that contribute to his unhappiness. He must bind his soul to Science and the revelations of the Beautiful, which are alone productive of the highest pleasure to their worshippers.

Such a revolution in the thoughts, desires, feelings and pursuits of the people would be a reform indeed. We need not hope for human regeneration from any other theory. There is a Divinity in man whose power must be disenthralled and enabled to control his whole being. Most of the Reformers of the day acknowledge these truths, but they labour rather to accommodate the physical, than to develop the mental, thinking the latter more



easily accomplished after the former shall be well-conditioned. The reverse, in our humble opinion, is the true *modus*. The mind being the executive head, from whose will all human action springs, must be first operated upon before any improvement or change can be externally manifested.

2. Education, we said, is the foundation of all true reform. The question now arises, how is the adequate mental and moral discipline to be secured, and all imbued with the passion, and provided with the means for intellectual pursuits? The only answer which can be given to this question is, to inspire the people on the subject—to teach them the true end of their being—to show they have mind, and convince them of its claims upon their attention—to array a world of beauty, glory and grandeur before them, and excite an interest in studying the works of God, and learning their relations to Him and the world,—in short, to speak to the people with the tongue of eloquence, and cease not, until a sensible and effectual movement be made in the great empire of mind. To this end, those whose influence controls the destinies of man, who exert all the moral power, must be up and doing. As they determine, so shall it be. If they remain indifferent the world will continue ignorant, vicious and miserable. But if they determine that man shall be intelligent, virtuous, dignified and happy, all the powers of evil cannot prevent the dawning of a glorious day.

3. Here we are prepared to speak more directly of the obligations of Literary Men. They are the moral governors of the people. The happiness of millions is in their hands. The vices and follies of the age are in their control. They, and they alone, are able to commence and carry forward the great educational movement demanded by the best interests of mankind. They are the disciplined thinkers of the age. They can appreciate the importance of the reform that is needed, and their eloquence of deep earnestness is sufficient to move the people on this subject. From them must come the plans that will carry forward the enterprise. They are scattered throughout the length and breadth of the land. They are among the people, influencing and moving them in the course they pursue. To them the mass look as exemplars, and for the modes of compassing their highest happiness. The people await their suggestions, and are readily induced to adopt them. They are conscious of their dependence, and cherish a Thinker wherever he may be found, whether in or out of the Professions. The literary men embody the spirit of the age, and are to be credited for whatever of good spirit there may be abroad, and are responsible for whatever of bad spirit prevails.

Let us endeavour to form something of an estimate of the power of this important class. All engaged in the professions

are properly termed **Literary Men**, because their business demands learning and constant study,—though the former is too often neglected, and, in the latter, there is too frequently a dearth. That portion of those who are good and true men of stability and influence, may be safely estimated at three for every thousand inhabitants, or three for every two hundred voters. These are in daily communion with the mass, over whom, for any purpose of good, they possess an unlimited sway. What might not be done would all of these unite in arousing the people on the great subject of education, which infinitely transcends every other enterprise in importance! Without it there can be little or no religion, and, therefore, let no one stare at this assertion. It enters largely into the essence of religion. The members of a single profession have often proved their ability to overflow the land with one mighty wave of excitement and enthusiasm.—Glance back through the political campaigns that have recently called up the people, men, women and children, from their quiet firesides and their daily avocations, and marshalled them in thousands and hundreds of thousands in the camp of civil strife. Who have done this but lawyers, and editors of the partizan press, most of whom are of the same profession? To be sure, others were active in moving these excitements, but lawyers have always been the chief council and agitators in politics, which is made a part of their business. And what great good has been the result? We will not deny that some benefit has been derived, but it is believed all sober men will agree that more injury has followed them,—at least, had the same zeal been expended in disciplining and elevating the public mind, infinitely more glorious would have been the achievement for human progress. The same profession has the power to instigate the mass to equal enthusiasm for its highest good, if it would but so resolve. If, then, it could be done by one-third of the class of literary men we are considering, how easy would be the task if the members of all the professions would unite heartily in the cause! Ye clergymen—where are you? Ye who claim to minister in truth and sacred things—ye who are styled in our constitutions the guardians of the people's souls—what are you doing for the universal diffusion of mental and spiritual culture? It is not denied that you do something,—but, this being your exclusive business, you stand culpable before the world for your lamentable failure in the discharge of your obligations. You pretend your mission is wholly in spiritual things,—but you know that there is intellect as well as spirit, and, if the former be suffered to famish, the latter will be impoverished. Great is your responsibility, and, therefore, strict must be your accountability. Physicians, too,—you rejoice in soothing the ills of the afflicted, in quelling the pangs of the distressed,—but are you not aware that most of

the "pains that flesh is heir to," originate in the ignorance of those laws which govern our being, whose infraction causes their violation? If so, what can you do more gratifying to your philanthropic nature than to throw the great weight of your influence into the scale of universal and thorough education? If you are mercenary, and, consequently, desire the perpetuation of disease and pain, you will, of course, do as little as possible, in this glorious enterprise.

Besides the members of the professions, so called, there are many other influential thinkers in the land, who are equally bound to act in this cause. The editors of the country—political, neutral, religious, and what are more commonly termed literary,—these constitute a strong and valiant host for the advancement of any purpose to which they may devote their energies. They hold all the channels of written communication with the public, and they spread their sheets before almost every man, woman and child in the nation. You can move the people if you choose. Whatever you publish has influence, either for good or evil, and it is lamentable indeed that you do not endeavour to enkindle the popular mind with a sense of its greatness and glory, under proper cultivation. Great, also, are your obligations and responsibilities.

Another class of influential thinkers embraces those who are distinguished, in common parlance, by the term Literary Men. They write for others to read, and, consequently, they have almost an unlimited power over the public mind. They mould the spirit and form the tastes of the people. How well they discharge their duty let the immoralities, ignorance, vice and misery that abound answer. You can awaken, enkindle and reform as you please, and why do you tolerate such general apathy on the question whether man shall be a MAN, or merely an animal? You have the care of both our intellects and souls, and, in the name of Humanity at large, we call upon you to cease pandering to vitiated tastes and endeavour to correct and elevate.

Besides these there are many quiet, unassuming thinkers in the land, scattered through all classes and all pursuits. You, also, have obligations to discharge, which your modesty should not permit you to violate. All who know that good can yet be done to mankind, and are conscious of possessing any power, should be ever ready to exert it. The world has struggled long enough in slavery. It has almost grown gray in ignorance and stupidity, and it is time it were shaken from its lethargy.

4. We have spoken in somewhat strong terms of the obligations of literary men;—we will, for a moment, inquire into the grounds of their duties and responsibilities. If there be one who questions his obligation thus to labour for the public good, we would ask him to look into himself and learn the pure desires and

aspirations of his soul. If he have any, they will direct his attention to the good of his fellows, and prompt a deep and hearty sympathy with the whole family of man. If any one be of a mercenary disposition, we have little hope of meeting a response from him. Doubtless, most will acknowledge that they are bound to do something,—but we wish it understood that they are bound to do almost every thing for the reformation and regeneration of their race. The ignorant and the vicious are helpless, and those who cannot appreciate the true interests of the great mind of man, are little better; consequently, if they are to be lifted to a high standard of intellectual and moral dignity, the few who think, and speak, and write, must do the work. The parent is the natural guardian of the helpless child, and who questions his or her duty to support and educate it for its highest happiness? That parent would be justly considered a monster, who, appreciating the necessity of a correct discipline, should wholly neglect it, and suffer the child to grow up in ignorance, vice and misery. The literary men are the guardians of the people, and equally well grounded is their obligation to see that they act for the greatest good. The thinkers, alone, are presumed to understand the capacities and capabilities of man, the laws which regulate his well-being, and the glorious end of human life. They must, therefore, counsel the people on these important subjects, and compel them, by every persuasive power to attain a loftier scale of existence. Who doubts the obligation of any one to help a drowning person, to waken and snatch from the flames a family sleeping under an inflamed roof? Thousands are being daily consumed in the flames of passion and unnatural appetite, and millions are exposed on the very brink of the abyss of wickedness and wo. The cry for help comes up from agonizing multitudes, and the few, who can render every assistance, stand halting between selfishness and duty, or questioning their obligation to lend a helping hand. But there is no use of speaking further on this point. Those who think have done all that has been accomplished for humanity, and they alone are responsible for the condition of the race. They have the power to act, and all that is wanting is a will and active virtue, to induce them to fulfil their duty and destiny. High is their vocation, and pleasurable are the gratifications its faithful pursuit affords. "Each for all and all for each," should be the motto of all who look to the highest good to themselves and fellow beings. This motto is written in our very natures by the finger of Him who fashioned all things.

5. Literary men complain of the people because they do not appreciate their efforts, and reward them with a living compensation. We do not speak here of the professions, for their labours, especially those of the lawyers and physicians, meet a

ten-fold greater compensation than the real value of their services. The services of clergymen cannot be estimated at their true value, but they should never be paid beyond an independence. Some of them are paid so extravagantly as to give them the character of speculators in human salvation; but the mass are probably not oversalaried.

Literary men proper—those who write for the public reading, are generally doomed to labour for nothing and find themselves. Consequently, our National Literature is inferior and unworthy the elevated character we boast. Our citizens, who are competent, and whose promptings direct them to literary pursuits, are generally poor, and compelled to engage in some other business to make their bread. Hence, minds that are able to do this nation honour, and the people good by their writings, are wasting away in some uncongenial employment. The consequence is, the intellectual standard of our people is low, but a small portion of that enjoyment attainable from reading and thought is realized by the mass,—genius dies without fulfilling its destiny, and we continue an ignorant, avaricious people.

But what are the causes of this deplorable condition?

I. Intellectual indolence. Our people are not, by any means, a slothful, lazy people, in point of physical energy. They are labourious even to excess. But all their toil is the mere exercise of the body, and so much of mental effort as is necessary to direct it. But how much of the noble, intellectual and truly spiritual is connected with our labour? This is best answered by referring to the engrossing object of our toils. What is it? What is it? It is one unworthy our origin, our natural greatness, or our destiny. It is foul as corruption, destructive as the pestilence, for it animalizes our nature, chokes the spirit, and suppresses our intellectual energies. What is it? It is the feverish, overwhelming passion for *money getting*. It is *avarice* that pervades the whole national heart,—and governs in all our enterprises. For the gratification of this unnatural and most contemptible of all developments of passion, our people are ready at all times to do any thing, dare any thing, and sacrifice every thing great and good. In this most inglorious strife we are not indolent. But to what does it all amount? Nothing—*nothing*. No beneficial end is gained—nothing but mental abasement is the result. Man dies in the strife, with no other consolation than that he has lived for nought,—lost the good he might have enjoyed, and frequently sacrificed his honour and his manhood. This passion is destructive to our intellectual and moral well being, because it begets mental indolence, and enervates the spirit in her aspirations and reachings forward to the Purer and the Better. We are too indolent to *think*—consequently, those stern efforts of

mind, which are alone able to bring forth is power, are avoided. They require too much mental exercise to be relished by the public.

2. The tastes of our people are non-spiritual, and non-intellectual. There is sufficient evidence of this in almost every school house in the land. Our Common School System is lauded to the skies. But how high is its aim? It aims at the dizzy height of avaricious gratification. We have made the astonishing discovery that a "little learning" is convenient in the strife of money getting. To supply this is the aim of our School System, and the great question discussed by us as a people is, how *little* will suffice. Gods! When we reflect upon the human powers, as manifested by the mighty men who have lived and died, and are now with us, how awful is the sacrifice offered to Mammon! We speak of the mass—the ruling portion. There is a small minority who attach a higher importance to education, and, occasionally, read beyond the partizan, sectarian and commercial news of the day. But what is the kind of mental food their tastes select? Why, as a body, they demand, and get in overwhelming tides, the light, fictitious, boyish *trash*, that does more to enervate the stronger faculties, and induce mental indolence, than all the inebriating drugs taken for the indulgence of acquired habits. Such is the taste to which many, yea most, whose efforts are rewarded, pander, regardless of the public good. To see the extent of this greediness for *trash* look at all our newspapers, whose name is legion. What is the character of the intellectual feast they weekly spread before their readers? A little political news, and a fictitious account of some lover's freaks. Why is this? Because the reading public do not relish more invigorating mental pabulum, and editors must make their papers please or they cannot live. Hence, little is written worthy the attention of the thinker, few books are published, which are books. What is the effect? Why, writers leave the healthful and improving, and waste their energies in the manufacture of trash. But we would not thus speak of *all* this minority. A few are found worthy of themselves. These are intellectually active, and seek the True—that which excites the Thought—that, the reading and study of which makes them feel greater, mentally and morally. These precious few patronize the valuable as well as the truly beautiful. How they compare, as to number, with the other class, let the immense crowds drawn out to witness a *humbug*, such as negro dancing, negro singing, or exhibitions of magic, and the empty seats, to which all true efforts of Thought are addressed, answer. This is so true an index of the character of popular attractions that where we see a dense crowd we may safely testify to the exhibition of a *learned pig*, or something as



ridiculous; on the contrary, where we observe but a few assembled we may be as certain that something real is to be heard or seen.

6. But how is this to be remedied? Who must undertake the Herculean task? A revolution must be effected, before any great increase of human happiness can be realized. The few who see the evil and are able to reform it, must do the work. They are able and responsible for its accomplishment. The literary men of the country are guilty of the gross perversion of taste and intellect that prevails. The people are just as they made them, and will continue to be what they choose to have them. We see, then, the justice of the neglect their valuable and most labourious efforts meet with. They have failed to discharge their obligations and suffer a righteous retribution.

What is necessary on the part of the Literary Men to work the reform?

1. More devotion to the business of their earthly mission.—They must scorn the allurements of wealth, and the frivolities of fashion. They must look to the public good, alone, regardless of remuneration. They are sent to the people,—they are able to govern them until they can govern themselves, and are bound to fulfil their mission, regardless of personal consequences.

2. Self-sacrifice. They must practice great self-denial, and endure much self-sacrifice, until the victory is won. They must labour, and if they cannot obtain, thereby, the luxuries of life, they must conform to simplicity and cheapness of style. They need not fear neglect. Let them do their duty, and nothing but their duty,—let them show the public the toil endured for the good of the people,—let them manifest the spirit within them, and impress it upon the hearts of others, and the world will soon manifest its gratitude, and supply all their demands. We repeat, then, Literary Men must do their duty, and until they begin, they deserve the neglect they meet.

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## TO EMELIE IN HEAVEN.

BY MRS. C. A. CHAMBERLAIN.

Thy gentle memory comes to-night,  
 Loved one who dwelleth with the bless'd,  
 Calmly as falls the tranquil light  
 Of yon mild star within my breast—  
 'Tis ever thus that lovely things  
 Wake sweet, yet mournful thoughts of thee,—



The light of stars—a gush of song—  
The plaintive moanings of the sea.

I still must think in that sweet clime,  
Amid the radiance of the heaven,  
Thou hast a memory of the love  
To me on earth so fondly given;  
And I must think 'mid angel bands,  
The same dear lineaments thou'lt wear,  
For all earth has of loveliness,  
Had met and mingled in thine air.

So thin had ever seemed the veil,  
Which screened thee from the heavenly bowers,  
That thy pure spirit melted through  
Gently as odours rise from flowers;  
Not then the hour for tears—not then  
Began for thee the rest heart's moan,  
But from my young life's melody,  
I knew the sweetest strain had flown.

How oft we've sat beside the sea,  
Roved hill and vale and woodland o'er,  
And that thou hadst called beautiful,  
Seemed touched with hues unseen before!  
For thou wert to my spirit's harp,  
The breeze to the Æolian given—  
Waking sweet strains along the cords  
A rude, unfeeling touch had riven!

Bright forms flit by me evermore,  
And eyes of love look into mine,  
But ah! no form on which I gaze,  
E'er brings a memory of thine;  
And oft where lute-like voices fall,  
I strive to check the coming tear,  
And the wild yearning at my heart  
For the sweet voice I *cannot* hear!

But when I wander out alone,  
Where leaves are dancing o'er the rill,  
Oh then by many a mystic tone  
I feel that thou art with me still!  
And keep thy gentle memory green  
By all thou most didst love when here,  
And bird and brook and low-voiced winds  
Sing of thee to my spirit's ear!

And oft I catch of that sweet face,  
A something where the violets dwell;—

And all thy young life's purity  
 Seems whisper'd from the lilly's bell;  
 And 'mid the tuneful melodies,  
 That come, and only come at even,  
 Methinks I hear thy blessed name  
 Fall like a music tone from heaven.

Though thou art gone, the LOVELINESS,  
*Which was thee, gentle one, is here!*—  
 In all that's *music to the eye*,  
 In all that's *music to the ear*,  
 I see thee still—and till the light  
 Falls not on me from yon sweet star,  
 Thy memory to my life will be  
 What sunbeams to the flowrets are!

TERRE-HAUTE, IA.

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CCEDMON AND MILTON.

BY CARYL.

CRITICS and reviewers generally, have manifested much illiberality and injustice in their treatment of the works of authors, both living and dead. In reviewing the book of a living author they too frequently suffer narrow bigotry, personal prejudice, or some motive of self-interest to blind their eyes to its beauties, and to magnify its defects. Who can read the Edinburgh, for instance, while under the control of "great Jeffreys & Co.," during the period which Moore rightly considered the golden age of English poetry, and not feel that, in consequence of its blind devotion to the Lake School, its critiques are, for the most part, grossly unjust? Unjust both in their unbounded praise of the poets and poetry of that school, and their bitter censure and condemnation of all others. The wrong done some true poets by this servile Review can be estimated only by those who know the influence, almost unbounded, which it exercised in all matters of taste over the whole British Empire—few were found who dared to differ from "the Infallible" in the estimate of an author's merits. Jeffreys was to poets, what Warwick was to kings—"maker and destroyer." He decided for the whole people, and no appeal from his decision was allowed;—that his decisions were unjust is sufficiently evidenced by the fact that a later generation has reversed them, in regard to Byron, Moore, Southey, Wordsworth, Coleridge and others, almost with one voice. Such was the character of one Reviewer, and we are al-

most tempted to write "*in uno disce omnes*,"—but there are honourable exceptions, which would make this sweeping charge unfair.

In treating the works of a dead author, especially one who has lain so long in his grave that all personal prejudices have died away, the injustice of the critic has another cause—generally a desire to gain literary fame to himself, regardless of the reputation of the person whose book he mercilessly dissects. A slight coincidence in any thought or expression, found in the work under the knife and any former book, and immediately he is branded a plagiarist—whether the thought or expression in question be such as would or would not probably occur to different minds, whether it be "worth stealing" or not, makes no kind of difference. The unfortunate author must be content to wear the brand, in order that the critic may be esteemed intimately acquainted with the whole field of letters, and too sharp-sighted by far to be imposed upon with these "borrowed plumes." A single example of this kind of critical villainy, from the many which we can recall;—in the beginning of the third book of (Hoole's translation) Orlando Furioso, Ariosto sings—

"What power will teach me lofty words to find  
For the great subject that inflames my mind?  
What power will lend my venturous muse a wing  
In tuneful lays my high conceit to sing?" &c.

which Spencer is charged with translating into his great poem the Fairy Queen thus—

"Who now shall give unto me words and sound  
Equal unto this haughty enterprise?  
Or who shall lend me wings with which from ground  
My lowly verse may loftily arise  
And lift itself into the highest skies?  
More ample spirit than hitherto was wont  
Here needs me, while the famous ancestries  
Of my most dreaded sovereign I recount," &c.

BOOK II. CHAP. 10.

although there is no *evidence* that I am aware of, which goes to show that he was even capable of reading and translating the Italian language—yet if he was versed in that tongue, as is more than probably true, we do *not* deem it probable he would translate an invocation so common-place as the above. If the similarity which exists in these two stanzas is sufficient to affix the charge of literary theft upon Spencer, then Heaven help our more modern rhymers!—they are universally under the same condemnation. We might point out, with little trouble, a dozen poems of modern date commencing with an invocation of this sort. All such hypercriticism (and it takes a great many different forms, of which I have merely mentioned a sample) is malicious villainy

and disgusting "stuff," and makes the honest man who reads it wish "a whip in every *author's* hand to lash the rascals naked through the world."

It would be curious and interesting to point out the coincidences (for such they are in most cases,) in the works of great minds, and we only object to the *manner* in which it is generally done.

When we say that the immortal author of the greatest epic poem ever written, was indebted for the *idea* of that poem to the Anglo-Saxon poet Cædmon, we do not rob him of a single leaf of his laurels. There is an almost infinite distance between the perfect work of Milton and the rough poem of Cædmon, and yet there is much of the "Miltonic" discernable in his "Paraphrase," parts of which we extract from Sharon Turner's work on Anglo-Saxon literature, as a curiosity, which we have no doubt will be interesting to the readers of the Journal—not only on account of its resemblance to *Paradise Lost*, but as a specimen of the poetry of our ancestors in a very early age;—indeed, he is the *most* ancient of all English poets of which we have any account. He died in the year 680. And the few remains of his writings we have, were preserved by Alfred, who inserted them, in the original Saxon, in his translation of Bede, (Bede. Op. iv. 24.)

It is written, as was all the Anglo-Saxon poetry, without metre, being modulated by the ear alone.\* The translation is nearly, though not quite, literal. The poetry of the ancient Saxons, and especially that of Cædmon, abounds in abrupt periphrasis and metaphors, which, when joined with another peculiarity, always found in their writings, the omission of the little particles of speech, make the meaning sometimes obscure. Where this is the case in Turner's translations, we have endeavoured to make the sense clear by inserting them—for example in Alfred's prose writings this phrase occurs, "So doth the moon with its pale light, that he obscures the bright stars in the Heaven," in his poetry the same sentence is thus written:—

"With pale light  
Bright stars  
Moon lesseneth;"

\* We give from Bede two specimens of their versification in Latin, of a later date than the age of Cædmon, but of the same kind of modulation. The rhythm being exclusively attended to in the composition, and yet very nearly resembling regular metrical composition. Thus in a beautiful hymn—

"Rex eterne! Domine!  
Rerum Creator omnium!  
Qui eras ante secula!" &c.

Here is a very near approach to the iambic metre, and in another hymn as near an approach to the trochaic. Thus—

"Apparebit repentina dies  
Magna Domini, fur obscura  
Velut nocte, improvisos occupans," &c. B. i. p. 57.

In which the reader will perceive the absence of the small particles of speech *the, its, that, &c.*, make the meaning very obscure.

We presume all the readers of the Journal are so well acquainted with *Paradise Lost* as to obviate any necessity of our noting the parallelism as we proceed, and we shall therefore quote only from the Paraphrase—

“To us it is very meet,  
That we, the Ruler of the firmament,  
The Glory—King of Hosts,  
With our speech should praise,  
And with our hearts should love.

He is in power abundant,  
The high Head of all creatures,  
The Omnipotent Lord!  
To Him there was never beginning.  
Nor origin made,  
To Him no end cometh,  
He is the Eternal Lord!  
He will be ever powerful  
Over Heaven's thrones,  
In high majesty,  
Truthfast and most strenuous,  
Ruler of the bosoms of the sky!

#### THE ANGELS.

Then were they set  
Wide and ample  
Through God's power,  
The children of Glory!  
For the guardians of spirits,  
The hosts of Angels!

#### THEIR ESTATE.

They had joy and splendour  
In their beginning-origin,  
Bright bliss was their great fruit—  
The glory-fast thegns  
Praised the King—  
They said willing praise  
To their Life-Lord,  
And their Sovereign obeyed,  
And with virtues were happy;  
Sins they knew not  
Nor to frame crimes,  
But in peace they lived  
With their Eternal Elder.

#### THEIR SIN.

They would not long do  
Council for themselves!

From the peace and love  
Of God they departed.  
They entertained pride  
That they against the Lord  
Would divide the throne  
Of the glory-fast place  
The wide and bright sky!

SATAN.

To him there grief happened  
To that angel, whose mind  
With envy and pride  
Began first to frame  
This ill council—  
Dark with iniquity  
Such words he said,  
That he a high seat  
In the Kingdom of Heaven  
Would possess—

GOD'S ANGER.

Then was God wroth!  
And with the host angry  
That He before esteemed  
Illustrious and glorious!

\* \* \* \* \*  
Grim retribution came!

THE REBEL ANGELS ARE PUNISHED.

The high King of Heaven  
His hands upreared—  
He pursued against them.  
Nor might the evil minded  
Against their maker  
Enjoy strength—  
Their loftiness of mind departed  
Their pride was diminished.

Then was God angry!  
He struck his enemies  
With power and victory—  
He took their joy away.  
\* \* \* \* \*

Illustrious Lord!  
His vengeance wreaked  
On his enemies greatly,  
In their own power  
Deprived of strength!—  
He in anger seized  
The limbs of his enemies,  
And in wrathful mind  
Broke them in pieces!

He deprived them their thrones  
And stations of glory—  
The faithless host!

#### THEY ARE BANISHED FROM HEAVEN

Long the journey then  
The Governor sent  
With mourning spirits  
The hated army—  
To them was glory lost,  
Their threats broken,  
Their majesty cut off,  
Their splendour stained!  
They into exile  
Pressed their black way.

#### HELL.

They laugh not now,  
But in Hell's torments  
Weary remain and know wo,  
Sad and sorrowful  
They endure sulphur,  
Covered with darkness!  
A heavy recompense  
Because they had begun  
To battle 'gainst God.

#### THE CREATION OF THE WORLD.

There was not then here,  
Except gloom like a cavern,  
Any thing created.  
But the wide ground  
Stood deep and dim,  
For a new lordship  
Shapeless and unsuitable—  
On this with his eyes he glanced,  
The King stern in mind  
The joyless place beheld.  
He saw the black clouds  
Perpetually press  
Dark under the sky,  
Void and waste—  
The Eternal Lord  
The Patron of all creatures  
Here first made  
The Heavens and the Earth.  
He reared the sky,  
This roomy land established  
With his strong powers—  
Almighty Creator!

\* \* \*



FIRST DAY.

Then was he, glory-bright,  
 Spirit of the Warder of Heaven,  
 Borne over the watery deep!  
 The Creator commanded  
 Light to come forth  
 Over the roomy ground—  
 Quickly was fulfilled  
 The high King's command!  
 The sacred light came  
 Over the waste  
 As the Artist commanded—  
 Then he separated  
 The light from the darkness—  
 \* \* \* \* \*  
 He saw the dark shade  
 Black spread itself  
 Over the land,  
 When Time declined  
 Over the oblation-smoke of the earth.  
 \* \* \* \* \*

SECOND DAY.

Then came another day  
 Light after darkness—  
 The Warder of life commanded  
 The watery abyss to divide,  
 And He made them  
 A fastness of a firmament—  
 The world was divided  
 Under the high firmament  
 With holy might;  
 Waters from waters  
 From those that yet remain  
 Under the fastness,  
 The roof of nations—  
 Then came over the Earth  
 Hasty to advance  
 The great third morning."

&c., &c., describing the six days of the creation,—then comes a Miltonic description of the hostility of Satan—preceded by a description of the high archangel before his fall—which we omit, lest our article exceed its intended limits. Satan then utters a soliloquy, which begins with doubting the success of his enterprise, but ends in the determination to pursue it:—

"Why should I contend?  
 I, who cannot have  
 Creature for my superior!  
 I, who have great power!

Why seek more god-like throne  
Higher in the heavens?

Yet why must I  
Sue for *His* grace?  
Or bend before Him  
With any obedience?  
I may be God as He is!  
Stand by me ye angels!  
Who will not deceive me  
In this contention—  
Warriors of hardy mind,  
Illustrious ones, have chosen  
Me for their superior;  
With such indeed  
One may take council!  
May seize a station!  
Nor need I bow to any,  
As if to any gods,  
A god inferior!"

After describing the anger of Deity and the defeat and expulsion of Satan and his host the poet thus describes his abode in the infernal regions:—

"The fiend and all his followers  
Fell then out of Heaven  
*During the space they fell*  
*Of three nights and days.*  
In a black hell  
Under the earth beneath  
The Almighty God  
Placed them, defeated,  
These have they forever  
Fire always renewed.

\* \* \* \* \*  
Brands and broad flames,  
Vapour and darkness  
And bitter smoke—  
Sought they other land,  
It was void of light,  
A great journey over fire!

\* \* \* \* \*  
Then spake the overproud fiend  
That erst had been  
The most shining of angels,  
'Is this the narrow place  
Unlike to that we knew  
High in Heaven's kingdom,  
The Almighty puts us in?  
He hath not done us right  
That he hath fell'd us  
To the fiery bottom

Of this hot Hell—  
 This my greatest sorrow  
 That Adam shall,  
 He that is made of earth,  
 My strong-like throne possess—  
 He is to be happy  
 While we suffer  
 Misery in this Hell!  
 O that I were free!  
 I and my army!  
 But iron bonds  
 Lay around me!  
 Knots of chains press me down!  
 I am kingdomless—  
 Hell's fetters  
 Hold me so hard  
 So fast encompass me!  
 Here are mighty flames  
 Above and beneath!  
 This fire never languishes;  
 Hot over Hell,  
 Encircling rings,  
 Biting manacles  
 Forbid my course!  
 My army taken from me  
 My feet are bound  
 My hands imprisoned!  
 Thus hath God confined me.' "

Cædmon then describes Satan as plotting the destruction of the happy pair of Eden. Having formed his plot and explained it to his subjects, he adds:—

"If Adam break through  
 His obedience  
 Then would the Supreme  
 With man be enraged  
 And prepare their punishment.  
 Strive ye all for this,  
 How ye may deceive them,  
 Then softly shall I repose  
 Even in these bonds!"  
 \* \* \* \* \*

There is no other evidence that the apparent similarity between *Paradise Lost* and Cædmon's Paraphrase, going to show that Milton was acquainted with the Anglo-Saxon language. Bishop Nicholson, in a letter to Wanley, dated 20th August, 1706, gives it as his opinion that he was not; but he quotes "a translator of the Anglo-Saxon," who thinks Milton had read Cædmon. No reasons are given by either as grounds for their opinions.

Turner says "Milton could not be wholly unacquainted with Junius," (a translator of Anglo-Saxon and author of a dictionary of that language, in which are many extracts from this very poem of *Cædmon's*), "and it is likely this poem was read by Junius in English to Milton." (*Turn. Hist.* iii: 316.

This would account satisfactorily for the very near resemblance which exists between the poems, even allowing Milton knew nothing of the Anglo-Saxon language.

CINCINNATI, FEB. 28, 1846.

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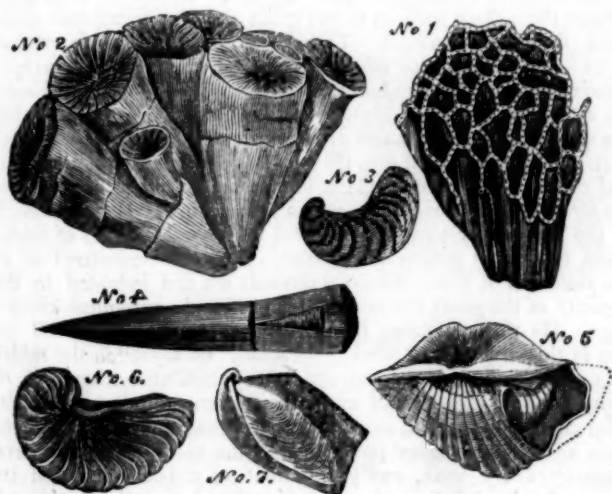
## GEOLOGY.

### PALÆONTOLOGY—FOSSIL REMAINS.

ACCORDING to our plan we are now to speak of the evidences of animal life afforded by the rock formations constituting the earth's crust. We approach a deeply interesting subject. It appeals not only to our sterner intellectual faculties to study their character, and draw correct inferences from the facts, but also to our moral and religious sentiments, to our wonder, marvelousness and veneration. What but a solemn and reverential awe seizes upon the man of common excitability as he travels down through the stony depths, meeting continually the remains of animals which once lived but are now no more! He beholds the solid rock, that was once the surface of the globe, in the shape of sand, gravel, clay, &c., upon whose productions the organized beings, now petrified in its bosom, once fed and thrived, now, by the mighty changes of time, cast miles below the surface, and finally thrown up again by the power of sub-terrestrial forces; he glances back through the inconceivable number of ages beyond the record of human events, whose history is written in the book of stone, each leaf of which is a stratum; he reads the evidence of progression in all the kingdoms of nature, marking the wonderful eras in the development of organized beings, up to that era of eras which hailed the advent of MAN as the crowning glory of this lower world:—With all the startling facts before him, what stirring reflections crowd upon his astonishment! What mighty conceptions of the Universe and its Omnipotent Author move every faculty of the intellect and soul to a loftier view of Nature's works! Thus the mind, by the accession of such curious and remarkable knowledge, receives a still broader expansion, and a new and exhaustless source of happiness is opened to man.

The study of the fossil remains is important, and indispensable to a proper knowledge of Geological Science; indeed, it is its principal feature. It requires an acquaintance with zoology, ornithology, ichthyology, botany, &c. to make the thorough scientific Geologist. Let no one be discouraged by the labour before him, for it will afford him his highest enjoyment, and if he enters upon it as a true intellectual being he will find himself on the top of the hill before the time anticipated. Forsake the foolish and sensual pleasures, apply your faculties to those subjects worthy their employment, and you will never curse your existence or moan over the miseries of life.

The organic remains, numerous in most of the sedimentary rocks, furnish us the most certain means of recognizing, among the labyrinth of rocks, one formation from another. Thus, the Silurian rocks are distinguished by the remains of a certain family of crustacea, called *trilobites*, which are not found elsewhere; except, perhaps, some very rare traces of them in the lower Carboniferous group. Of these are the different species of the genera *Asaphus* and *Calymene*. Of the latter, the species *Blumenbachii* is represented on page 136, fig. 10. The *Polyparia*, or corals, fig. 1 and 2 in the cut below, called the *Cyathophyllum turbinatum* and *Catenipora escaroides*, distinguish this period.



The *gryphæa arcuata*, fig. 6, characterizes the lias, or lower part of the oolitic system. The *exogyra virgula*, fig. 3, belongs

to the upper portion of the oolite. The *baculites*, and turrilites begin and end in the cretaceous, or chalk period. The *belemite*, fig. 4, makes its first appearance in the lias, and disappears with the chalk; as also do the *scaphites*. The ancient beds transmitted only the *orthis*, one species of which, the *antiqua*, is at fig. 8, page 136,—the *spirifers* fig. 5, the *productus* and the *terebratulas*, of which a species, *digona*, is represented by fig. 7, to as late a period as the cretaceous era. We speak, here, of remains frequently met with; but if we notice the vertebrated animals we shall find some important ancient characters in the chalk that distinguished the carboniferous era; as the enormous fish called *sauroid*, of huge size, with immense jaw bones, armed with strong teeth, which indicate their voracity. Among the reptiles we also find genera, some species of which are remarkable for their colossal dimensions, which commence with the magnesian conglomerate.\* The gigantic saurians, amphibious, and terrestrial or flying, characterize the deposits since the lias to the chalk, inclusive; above are found crocodiles and true *squales*, which continue from the chalk to the upper depositions. The mammiferous animals begin to show themselves in the oolite, but do not become abundant till after the cretaceous era.

Thus, it will be perceived, the Geologist has discovered multitudes of animal and vegetable remains, whose species, and in some instances whose genera are extinct. These he examines, assigns them their position in the great chain of being, and gives them appropriate names. There are multitudes more, whose races are still extant, or whose types are living. In this investigation Comparative Anatomy is indispensable. By this science we are enabled with a single bone, or moulding of one, to tell the species, genus and name of the animal to which it belonged, if its kind exists, and if not, then its analogies can be pointed out and referred to its proper place in the animal kingdom. From the strata of the Paris basin, which belong to the Eocene epoch of the Tertiary system, were derived innumerable bones of mammalia of extinct genera and species. For the re-construction of the skeletons of these unknown animals we are indebted to the sagacity of the great Cuvier, and his profound anatomical knowledge. He thus describes the glowing interest experienced by him in this magnificent work. "Placed," he says, "in the midst of a great charnel-house, surrounded by mutilated fragments of many hundred skeletons of more than twenty kinds of animals, piled confusedly around me, the task assigned me was to restore them all to their original position. At the voice of comparative anatomy every bone, every fragment of a bone, resumed its place. I cannot find words to express the pleasure I experienced

\* See page 63, No. 1, Poikilitic System.

in seeing, as I discovered one character, how all the consequences which I predicted from it were successively confirmed. The feet were found in accordance with the characters announced by the teeth; the teeth in harmony with those indicated beforehand by the feet; the bones of the legs and thighs, and every connecting portion of the extremities were found set together precisely as I had arranged them before my conjectures were verified by the discovery of the parts entire."

With these preliminaries we proceed to consider the fossil remains which characterize the fossiliferous rocks. Let it be remarked, however, that geologists are enabled to investigate the earth's crust below the first appearance of organized being; that is, they are acquainted with rocks formed before any kind of vegetables or animals existed: so that we have the whole record of their past history. Fossils appear at the depth of from four to six miles.

We begin, then, with the

#### CAMBRIAN SYSTEM.\*

In this group we find the first undoubted traces of organic remains. They occur at but few points, and in small quantities, amidst a great thickness of sedimentary rocks, extending over a wide area. Remains are not found in the older stratified rocks of the mica slate and gneiss systems. They are found in the Bala and Coniston limestone of the cambrian system. About thirty-six species of zoophytes and moluscs are found in these formations belonging to the genera *Cyathophyllum*, *Terebratula*, *Spirifer* and *Septæna*, or *Producta*. The zoophytes and moluscs are the lowest in the scale of being. The former term is derived from *zoon* and *phuton*, two Greek words which may be rendered a living plant or a vegetable animal. It comprehends those beings which partake of the nature of both an animal and a plant; as the corals, sponges, &c. The latter term—derived from *mollis*, *soft*—includes those primary animals which have a gangliated nervous system, with a soft and inarticulate body. A few of them breathe air, but the greater part respire through the medium of salt and fresh water.

#### SILURIAN SYSTEM.†

The remains of this system are similar to those of the Cambrian, though indicating greater development. They are more abundant and characteristic. They consist chiefly of the lower orders of marine animals, and comprise about ninety species of *polyparia*, or corals, and between thirty and forty *crinoidea*, both

\* Journal and Review No. 1, page 60. † No. 1, page 61.



of which are generally distinct from those of the carboniferous system. The *crinoidea* are so called from their lilly-shaped disc,

Fig. 8.



Fig. 9.

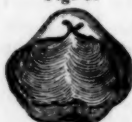


Fig. 10.



supported on a jointed stem. When this stem is cylindrical, the species is termed *encrinites*; when pentagonal, *pentacrinites*. The shells at present known consist of about two hundred species of conchifera, (bivalves,) sixty of gasteropoda, (univalves,) and eighty of cephalopoda. The prevailing genera are *Septæna*, (*Producta*), *Delthyris*, (*Spirifera*), *Orthis*, *Atrypa*, *Terebratula*, *Pentameris*, *Orbicula*, *Lingula*, *Euomphalus*, *Oorthoceras* and *Bellerophon*. Fig. 8 is the *Orthis antiqua*; fig. 9 the *Atrypa rotunda*. Many of these genera are also found in the carboniferous limestone, but the species are quite distinct. The abundant crustaceous family of trilobites are nearly all distinct from those of the Carboniferous System. Fig. 10 gives some idea of this family; it is the *Calymene Blumenbachii*. Two species of *Polyparia*, or coral, are represented by figures 1, 2, of cut on page 133. They are found in great abundance in this vicinity. A few algæ, or sea weeds have been found, chiefly in London; but the existence of terrestrial plants in the rocks of the Silurian era requires further investigation. It is highly probable that sea-weeds, being lowest in the vegetable kingdom, appeared first.

#### CARBONIFEROUS SYSTEM.\*

We now approach an exceedingly interesting era in the progress of organic development. The physical constitution of the earth, and the elements now became attempered and adapted to higher grades of animal and vegetable existences.

The rocks of this period are extremely rich in organic remains, comprising zoophytes, moluscs, crustacea, and fishes of many genera and species, all of the first, and nearly all of the three latter being marine; but neither reptiles, birds nor mammalia have yet been discovered in any rocks in this epoch. The plants are chiefly of the coal formation, and almost wholly terrestrial. Nearly all the zoophytes are confined to the calcareous portions of the carboniferous limestone formation. They consist of about eighty four species, three of which are echinida, and the remain-

\* See No. 1, page 62.

der polyparia and crinoidea, in nearly equal proportions. The last are a family nearly extinct. Most of the corals belong to extinct genera. Of three hundred and thirty-nine species of moluscs, three hundred and twenty-six are derived from the carboniferous limestone, and the remainder from the coal formation, in which occur the only species, ten in number, which can be considered as belonging to fresh-water, or estuary genera.

Among the conchifera (bivalves) of this epoch, the prevailing genera are spirifera forty-three species, producta thirty-eight species, terebratula twenty-one species. Of the first the *spirifera attenuatus* is here figured, fig. 11, and another, *spirifera trigonalis*, can be seen on page 133, fig. 5. Of the producta, fig. 12

Fig. 11.

Fig. 12.



is a representation of the *producta scabricula*. The spirifera commenced with the cambrian rocks, and became extinct in the lias; the producta commenced at the same period, and expired in the poikilitic era; while the last genera continued through all the fossiliferous strata, and is represented by fifteen living species. Of the cephalopoda—moluscs having the organs of progression arranged around the head, as the cuttlefish—the prevailing genera are orthoceras twenty-eight, belerophon twenty-three, nautilus twenty-six, and ammonites thirty-three species. The first two are peculiar to the Cambrian, Silurian and Carboniferous Systems. The nautilus is found in the strata of all ages, being most abundant during the era under consideration, while in the tertiary period it is represented by four, and in the present seas by two species. The ammonites, of which seventeen species are below the Carboniferous, and one hundred and sixty-four in the Oolitic system, terminated with the cretaceous group.

Fig. 13.

Fig. 14.



The fishes of this period belonged to the placoid and ganoid orders. They are nearly all distinguished by the peculiarity of structure in the tail, called heterocercal, that is, divided into two

unequal lobes, as the shark and sturgeon, instead of two equal lobes as the salmon, or with a single rounded lobe as the wrasse. The upper lobe is the longest, being a continuance of the vertebral column. This can be seen in figs. 13 and 14.

This structure becomes more rare after the deposition of the magnesian limestone. The homocercal structure, that is, two equal lobes as in fig. 14, prevails among living fishes. The largest fishes of this era belonged to the predacious family, called sanroid. Their only living representatives are the lepidosteus and palypteus, embracing seven species. The former is found in the North American rivers, and the latter inhabits the Nile and Senegal.

Botanists have divided the fossiliferous strata into four epochs, distinguished by peculiar groups of vegetable remains. The first terminates with the carboniferous system; the second belongs to the poikilitic system; the third includes the oolitic and cretaceous deposits; the fourth is the tertiary epoch. The floras of the first and fourth epochs are the most abundant and best known. The first shows the greatest deviation from existing types, while in the tertiary strata the forms of dicotyledonous plants, which now prevail on the earth, became at all abundant.

The fossil plants of this region are chiefly confined to the coal formation. The seams of coal are composed of their accumulated remains.

Fig. 15.



The species at present discovered amount to three hundred, consisting of twenty equisetaceæ, one hundred felices or ferns, sixty lycopodiaceæ, ten phanerogamous monocotyledons, ten coniferæ, fifty cactaceæ, and fifty indeterminate.

Palms are not met with among the coal plants, but the impressions of leaves are sometimes found.

Considerable quantities of wood retaining its texture are found resembling the existing coniferæ. All kinds of fir, pine, cedar, juniper, savin, cypress and arber vitæ belong to the coniferæ. They were much the most abundant during this epoch. The ferns were the most numerous plants of the coal shales. One of these is represented with a magnificent leaf in fig. 15, called *Neuropteris loshii*.

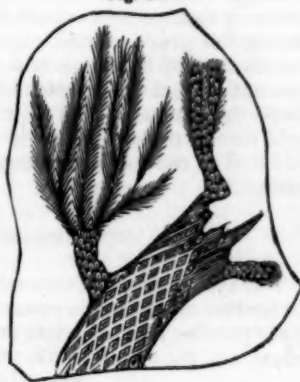
Large stems are occasionally found accompanying those leaves of ferns. They are destitute of leaves, from six inches to five feet in diameter, and sometimes forty or fifty feet long. To these is given the name of *Sigillaria*. In the shale, where they lie parallel to the strata, they are generally squeezed flat; they must, therefore, have been hollow. They have been supposed to be true ferns. Fig. 16 is a trunk of the *sigillaria pachyderma*.

The lepidodendra are considered analagous to the lycopadia, of which there are two hundred species abounding in the torrid zone, the greatest size of which does not exceed four feet, while the stems of these ancient lepidodendra are found forty or fifty feet long and four feet in diameter. If in the torrid zone they are now found only four feet high, what must have been the temperature of the regions of our temperate zone during the carboniferous epoch, when their stems were fifty feet long! Fig. 17 is a *lepidodendron selaginoides*.

Fig. 16.



Fig. 17.



The calamites usually occur as short jointed, cylindrical, or compressed fragments which have been hollow. They have been referred to the tribe of equisetaceæ, or horse-tails, which arrive at their greatest magnitude under the tropics, attaining a height of two or three feet and a diameter of about an inch; while the calamites are frequently six or seven inches in diameter, and a few have been found double that size. They are, however, now believed to belong to a race of plants entirely extinct.

The stigmariæ are among the most abundant of the coal plants. They are usually found as fragments, apparently portions of branches, the surface of which is covered with tubercles spirally arranged and having small cavities in their centres. From these cavities long ribbon-shaped appendages have been traced for several feet. It has been conjectured by Dr. Buckland that these stigmariæ were succulent aquatics which trailed in swamps, or floated in still or shallow water.

The reader, has, doubtless, become apprised, from this short account of the vegetation of this epoch, of its wonderful luxuriance. He can readily fancy a landscape covered with gigantic plants of a summer's growth, different in kind from those more

modest and beautiful of the present era. He sees not that variety of coloured charms which now so pleasantly decorate the fields and groves. But, though there was less of beauty, there was more of exuberant magnificence.

The question here arises, what are the causes of this great difference in the rankness of the vegetation of the two epochs? This is answered by supposing the atmosphere of the carboniferous period to have contained more carbonic acid than at present. Carbonic acid is favourable to the growth of vegetables, but prejudicial to the life of warm-blooded animals; and we have no evidence that a single animal, breathing by means of lungs, lived during this period of rank vegetation. This acid is an abundant constituent of limestone and coal, and when we consider the amount of coal and limestone formed at this time, we can hardly avoid the conclusion that the air contained vastly more carbonic acid than at present. This acid is fatal to an animal immersed in it. The cause of the change belongs to the third part of this outline.

#### POIKILITIC SYSTEM.\*

This system forms a connecting zoological link between the carboniferous and oolitic systems. It contains some plants and shells peculiar to itself, while others are found in the coal series below, and the oolitic above. The most remarkable shells of the

Fig. 18.



magnesian limestone of this series are the *producta calva*, the *producta horrida*, the *axinus obscurus*, and the *spirifera undulata*. A species of the latter genus is seen in fig. 11. Characteristic of the muschelkalk are the *Ammonites nodosus*, *Avicula socialis*, and the beautiful lilly *encrinite*. The first is represented at fig. 18, and the last looks more like an ear of corn, in the picture, than any thing else.

The predacious family of sauroid fishes are of a smaller size than in the older strata. Reptiles now begin to make their appearance. Two genera of saurians, (thecodontosaurus and paleosaurus,) allied to the iguana and monitor have been found in the magnesian conglomerate near Bristol, England, the oldest deposit which has yielded reptiles. Several other genera have been found in the muschelkalk, as also the shell of a large species of turtle. The footsteps of terrestrial tortoises have been seen on the upper surface of beds of sandstone belonging to this series.

\* See No. 1, page 63.

The flora of this system comprises coniferæ of the extinct genus *voltzia*, peculiar to it, and several genera of ferns and cycadææ. The genera *lepidodendron* and *calamites* of the coal measures terminate with the muschelkalk; the genera *pterophyllum*, and the *gigantic equisetum columnare*, of the lias, commences in the zechstein, the german, corresponding with the magnesian limestone.

On the new red sandstone of Connecticut, the footprints of enormous birds have been discovered. The largest must have been made by a bird twice the size of an ostrich, the length of the foot being fifteen inches, exclusive of the largest claw, which measured two inches. These birds are supposed to have belonged to seven species of grallatores, or waders. The distance of one print to another indicates the great length of legs, six feet. In Saxony footprints have been found in the same formation, resembling in shape the human hand. The animal supposed to have made them is called the cheirotherium, allied to the marsupialia. Similar discoveries have been made in the sandstone of England. The hope is indulged that fossil bones will yet be found, from which the nature of the animal can be learned. If the conjectures of geologists be correct, this is the era of the advent of mammalia. The earliest evidence of the existence of mammalia—animals which suckle their young—detected previous to the discovery of these foot-marks, was confined to two or three jaws found in the calcareous oolitic slate of Stornesfield.

#### OOLITIC SYSTEM.\*

The fossils of this formation are marine and littoral. Corals, echinida and stellerida are rare; but crinoidea are common, and also conchifera (bivalves) of all orders. The prevailing genera are *terebratula* and *gryphæa*, the last in such abundance as to have given rise to the Continental name for the formation of Calcaire-a-gryphites. The *gryphæa incurva* is seen at fig. 19, and the *gryphæa arcuata* at fig. 6. It contains species of the genera *plagiostoma*, *modiola* and *pholodonegra*.—The ancient genus, *spirifera*, terminates with this formation. Cephalopodous moluscs (chambered univalves) are abundant of the genera *ammonites*, *belemnites* and *nautilus*.

Fig. 19.



\* See Journal and Review No. 1, page 64.

The fishes of the lias as well as the whole oolitic group belong to the ganoid order, distinguished by a protecting cuirass, extending from the head to the rays of the tail, and composed of long rhomboidal scales, curved with enamel. Reptiles are numerous, the most remarkable of which are the marine genera *ichthyosaurus* and *plesiosaurus*, in which, by a wonderful modification of structure, the saurian type was adapted for a constant residence in the sea.

*Ichthyosaurus*; some species of which must have exceeded thirty-five feet in length. It had the form of a porpoise, the head of a lizard, and the teeth of a crocodile. Its strength, powers of vision and rapid motion, must have rendered it the tyrant of the deep. It supplied, in the economy of nature, the place of the predacious family of sauroid fishes of the older epochs, which had now become extinct.

*Plesiosaurus*. This reptile was somewhat analogous to the *Ichthyosaurus* in structure. It was less adapted to rapid motion through the water. It had a small head and long neck. It is probable it frequented shallow water, where it lurked among gigantic weeds, and darted out its long and flexible neck to seize its prey.

These reptiles may be seen in the water. Fig. 20.

Fig. 20.



The most remarkable circumstance attending the fossils of this formation is, that they appear to have met with immediate destruction and envelopment in sediment, if they were not buried alive. The evidence of this is, their perfect state, scarcely a



bone or scale being removed, as would have happened had they been exposed, even for a short time, to the putrefactive process. Sometimes the contents of the intestines are found within the pelvis. Another proof of sudden inhumation in the lias, is afforded by the ink bags of a species of *loligo*, which are frequently found at Lyme Regis, distended with ink in a dried state, so perfectly preserved as to be capable of being used for the same purposes as Indian ink, which is obtained from an oriental species of existing *loligo*. The proofs of their sudden death could be recorded in their own ink.

Above the lias is the lower oolite, the organic remains of which are more varied. The plants are chiefly cycadeæ, ferns and equisetæ. The *cycas revoluta* is seen in fig. 21. The ferns are distinct from those of the carboniferous era. There are no calamites, lepidodendra, sigillariæ or stigmarie. Corals (zoophytes) are abundant. Shells, fishes and crustaceous (conchifera) of all orders abound, and are more developed than in the lias.—The saurians are of the genera *ichthyosaurus*, *plesiosaurus*, *crocodilus*, *megalosaurus* and *pterodactylus*.

Fig. 21.



*Megalosaurus*. This was a gigantic carnivorous reptile, partaking of the structure of the crocodile and monitor. It was from forty to fifty feet in length.

The form of the jaw shows that the head was terminated by a strait and narrow snout. The teeth prove it to have been exceedingly destructive to other animals. They combine the mechanism of the knife, the sabre and the saw.

*Pterodactyl*. A winged lizard is unknown in the existing creation, but the pterodactyl exhibits a curious adaptation of the saurian form to the purposes of flight. Eight species have been found, varying from the size of a snipe to that of a cormorant. The external form approached that of a bat; the fore-arm being elongated, to support a membranous wing, from which projected fingers, terminated by long hooks, like the curved claw on the thumb of that mammalian. Its beak was armed with at least sixty teeth. It belonged to the lizard family, and, therefore, was neither a bat nor a bird. It may be seen in fig. 20, with the end of its wing in the mouth of the *plesiosaurus*.

*Marsupialia*. Of these, only three jaws have been found, belonging to two species about the size of a mole. Their teeth show them to have belonged to the class mammalia, and the

form of the crowns identifies them with the order marsupialia. The marsupialia are quadrupeds, the females of which have pouches for their young, as the kangaroo and opossum.

We next come to the middle or coralline oolite, of which the following fossils are characteristic:—*Ammonites caloviensis*, *Gryphæa dilatata*, *Ammonites vertebralis*, *Plegiostoma rigidum*, *Clypeus dimidiatus*, *Cidaris florigemma*, *Astræa tubulifera* and *Caryophylla annulata*.

Next is the upper oolite, the fossils of which are not remarkable.

Travelling still upward we come to the Wealden formation, which is distinguished by the remains of several huge plants, as the *Clathraria* and *Endogenites*, and of remarkable reptiles, as the *Iguanodon*, *Hylæosaurus* and *Megalosaurus*. The most extraordinary of these was the

*Iguanodon*. This reptile bore a considerable analogy to the Iguana, a small herbivorous lizard, which inhabits the West Indies, and other parts of tropical America. The teeth show that it masticated its food like herbivorous mammalia. The length of the teeth is about three inches, or twenty times longer than those of the Iguana. By comparing the bones with those of the Iguana, which correspond, the following astonishing proportions are exhibited:—

	Feet.	Inches.
Length from the snout to the tip of the tail, - -	70	0
Length of head, - - - - -	4	6
Length of body, - - - - -	13	0
Length of tail, - - - - -	52	5
Height from the ground to the top of the head, -	9	0
Circumference of the body, - - - - -	14	6
Length of thigh and leg, - - - - -	8	2
Circumference of thigh, - - - - -	7	6
Length of the hind foot, from the heel to the point		
of the long toe, - - - - -	6	6
Length of claw bone, - - - - -	0	4
Horn, - - - - -	0	4

The *Hylæosaurus* was of less gigantic size, probably not exceeding 25 feet in length.

*Birds*. The Wealden was supposed to afford the earliest traces of the remains of birds, until their foot-marks were found impressed on rocks in America referred to the Poikilitic era.

#### CRETACEOUS SYSTEM.

The organic remains of this system are nearly all marine, and afford a group entirely distinct from those of the oolitic rocks

below, and the tertiary strata above. The plants are few, and exclusively marine. No land or fresh-water shells, and no bones of mammalia have been met with. Sponges and corals are numerous.

**Fishes.**—Two new orders of fishes appeared in this epoch. During the formation of the older strata, the placoid and ganoid orders exclusively prevailed; in the cretaceous epochs genera of ctenoid and cycloid orders first came into existence. The placoid fishes are characterized by having the skin *irregularly* covered with plates of enamel, sometimes large, sometimes reduced to small points, as in sharks and rays. The ganoid fishes are covered *regularly* with angular scales, composed of long plates, coated externally with bright enamel; more than five-sixths of which are extinct. The bony pike and the sturgeon belong to it. The ctenoid fishes are distinguished by scales jagged or pectinated on the posterior margin, as in the perch. The cycloid fishes have scales smooth and simple on the margin, and often ornamented with various figures on the upper surface. The herring and salmon are examples. In these two orders the scales are composed of laminæ of bone, or horn, and are destitute of enamel. To the ctenoid and cycloid orders belong three-fourths of the eight thousand known species of living fishes. These first appear in the cretaceous era. Nearly two-thirds of the species of that era belong to extinct genera, and none of them are identical with those of any system more ancient or recent. Mr. Mantell found in the chalk of Sussex, fossil fishes with the air-bladder distended, and containing the contents of the intestinal canal, proving, as in the case of the ichthyosauri of the lias, sudden destruction and rapid envelopment.

The reptile *Mosasaurus* belongs to this era.

A bird allied to the albatross, and one resembling a swallow, have been discovered in this era.

The following table shows the number of species belonging to extinct genera in the rocks of each system.

Systems.	No. of species.	No. belonging to extinct genera.	Per cent.
Cretaceous, -	800	about 300	38
Oolitic, a discovered group of plants, -	1,300	" 500	38
Poikilitic, -	200	" 80	40
Carboniferous, -	600	" 150	25
Silurian, }			
Cambrian, }	600	" 400	66

A few only of the same species of shells are found in two systems; no two systems, according to Agassiz, have a single species of fish in common.

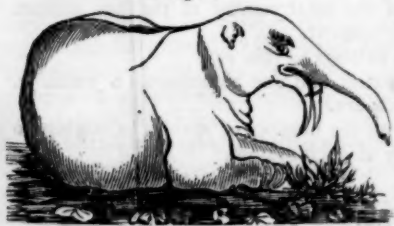
## TERTIARY SERIES.\*

From the Eocene strata of the Paris Basin the celebrated Cuvier drew forth a vast treasury of organic remains. The result of his labours was the discovery of nearly fifty extinct species of mammalia, most of them belonging to extinct genera of the order pachydermata, which received the names of palæotherium, anoplotherium, lophiodon, anthracotherium, cheropotamus and adapis. These extinct genera approach nearly to the characters of the tapirs which inhabit the warm, marshy regions of South America and Africa. They have also resemblances connecting them with the rhinoceros, hippopotamus, hog and horse. The adapis appears to have formed a link between the pachydermata and the insectivorous carnivora. It resembled the hedgehog in form, but was three times its size. Of the order marsupialia, there was a small didelphys, allied to the opossum of North and South America; of the order rodentia, a dormouse and a squirrel; of birds, nine or ten species of the genera buzzard, owl, quail, woodcock, sea-lark, curlew and pelican.

The London clay deposit of this epoch contains the remains of tortoises, crocodiles, crabs, fishes and marine shells in great abundance. Out of four hundred marine shells from this bed, scarcely two per cent. prove identical with living species.

The remains of the Paris and London basins prove that a high temperature must have prevailed in the northern regions of Europe during the Eocene epoch. But this will be treated in our next.

Fig. 22.



Of the Miocene shells, we find eighteen in a hundred to have existing representatives. This deposit presents us with the earliest forms of animals existing at the present time. Here are found the remains of the *Dinotherium*, a large herbivorous animal represented in fig. 22. It reached the extraordinary height of eighteen feet. The most remarkable peculiarities of its structure consist in two enormous tusks at the end of its lower jaw, and in the shoulder blade, which resembles that of a mole, and is calculated to have given the power of digging to the fore-foot.

To the Pliocene period belong the enormous animals called the

\* See Journal and Review, No. 1, page 65.

*Great Mastodon, Megatherium, &c.* They were first found in America. The former attained the height of the Indian elephant, but was much longer. The Megatherium was discovered towards the close of the last century. It was a slow-moving animal like the sloth, and the size of a common ox. It lived upon roots, which it dug from the ground. It was, therefore, constructed for enormous strength. Another animal of this period was discovered by Jefferson in a cavern in Virginia. It was herbivorous, a little smaller than the megatherium, and is called the *Megalonyx*. It was constructed for bending over and breaking down trees for its food.

A huge animal called the *Mammoth* existed in the Pliocene, or Deluvial period which succeeded the Pliocene. It is a fossil elephant. Its remains have been discovered in the icy regions of Siberia with portions of the flesh and hair actually preserved in the ice. The beds of the Volga, Don, and other northern rivers, are filled with its bones.

We have again travelled up to the present surface of the earth. We shall pursue the subject in the next number, and treat of the physical changes that have transpired, as far as geology can describe them, together with their causes.

We trust that the present article furnishes abundant food for reflection, to those who have paid little or no attention to the subject. We disclaim any merit for the compilation of these facts. They are furnished to our hand by the books.

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## SERGEANT JASPER.

BY EMERSON BENNETT.

"He was a noble fellow—a true patriot—and fell before the walls of Savannah, in attempting to bear off the flag of his country."

LET his name ring out in story,  
 Pass his deeds from sire to son,  
 Round him shines the halo, glory!  
 Fame is his, and nobly won.

When our land in gloom was shrouded,  
 And War rang her loud alarms—  
 When men sought, with brows o'erclouded,  
 Victory, or death in arms—  
 When each sound was execration,  
 Uttered from a tyrant's throne,

'Gainst the people of that nation  
Who had dared protect their own—

Then it was with bosom swelling,  
Proudly daring to be free,  
Every thought his breast expelling,  
Save his "God and Liberty"—  
Jasper nobly took his station,  
Foremost in the bloody fight—  
Sought nor glory, ostentation,  
Fought but for his country's right.

Gallantly he proved the soldier,  
One who never failed to do;  
Bold in action, none more bolder—  
True to honour, none more true:  
Fearless, where the raging battle  
Bore grim Death on every blast—  
Cool amid the cannon's rattle,  
First to strike—to strike the last.

See! he fights! his boon's before him,  
Liberty—a soldier's grave—  
See yon banner streaming o'er him,  
Never yet o'er one more brave:  
Mark him now, so proudly glancing  
Where those stars and stripes unroll—  
'Fore his gaze bright forms are dancing,  
Glorious visions fill his soul.

Ha! what means that standard falling?  
Signal, is it, of retreat?  
Hark! methinks a voice is calling—  
"Raise again that standard sheet!"  
O'er the ramparts swiftly gliding,  
Round whom fall the shot, as rain,  
Mark that form, who, fear deriding,  
Rears aloft that flag again.

"Fight, my comrades, never falter"—  
Sounds his voice in accents high—  
"Stand ye firm on Freedom's altar,  
None but cowards fear to die!  
See! our flag again is flying,  
See! it's stars are shining free!"  
"Noble Jasper"—voices crying—  
Link his name with victory.

On the field before Savannah,  
In that long remembered day,

Foremost, mark him bear the banner  
 'Mid the dire and bloody fray.  
 Look! those features! God of glory  
 How they pale! must Jasper die?  
 No! he firmly stands, though gory—  
 Firmly waves his flag on high.

Ah! he falters—he is dying!  
 Strength to fate begins to yield;  
 Friends afar and near, are flying—  
 Foes have dearly won the field.  
 To his comrade, near him, turning,  
 With his lingering breath he cries,  
 "Take this flag, Bush; say that spurning  
 Tyrants, Jasper, glorying dies!"

Few there were among the number,  
 Who for old Columbia fought,  
 Dared such deeds, to rend assunder  
 Slavish chains, by despots wrought.  
 Jasper, when thy name, long cherished,  
 With thy virtues, we forget,  
 Then will all bright thoughts have perished—  
 Then will Freedom's stars have set.

Let his name ring out in story,  
 Pass his deeds from sire to son,  
 Round him shines the halo, glory!  
 Fame is his, and nobly won.

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### ASSOCIATION.

THE prominent idea of Association, at the present day, is that system of organized industry taught by Charles Fourier. This distinguished philanthropist ardently desired the realization of a truer and happier condition of things among his fellow men. He saw the earth palled in the dismal aspect of vice, destitution and sorrow, while all analogies pointed to a state of physical, moral and intellectual enjoyment and nobility, as the true destiny of every human being. Being one of Nature's honestest men, to see a truth was enough to call forth his earnest power in its defence. Being unhampered by narrow selfishness, and elevated by a beautiful spirit of benevolence, the prospect of deliverance from the many woes which hung like night upon the whole family of man, was enough to bind his ardent soul to the enter-



prize of demonstrating a theory of human redemption. Long and vigorously did he pursue this heaven-approved object, practising the extremest self-denial, until the mists of doubt and difficulty were expelled, and the cheering light of hope and truth shone pleasantly about him. He commenced at the fountain head of all Truth, and travelled step by step through the whole philosophy of Humanity, detecting error, and developing a system of physical, intellectual and moral harmony. Unable, as has been the case with many illustrious men, to make an impression upon his own age, he handed a partial record of his discoveries to the succeeding generation, which is now enforcing their theme upon the public attention.

The subject is of such vast moment—the necessity of reform so pressing—and the promises of the Associationists so encouraging, that he who thinks and does not thoroughly canvass the whole theory, ought to be considered dull, and criminally indifferent to the welfare of his race. The time has come for energetic thinking and acting in the campaign of Human Progress. Intelligence is rapidly advancing—tastes and wants are being developed which must be gratified—and it is evident that the present state of society is inadequate to answer the demands occasioned by a general mental discipline. **WHAT IS TO BE DONE**, is the great problem of this age. The Associationist thinks he has solved this question, and certainly we shall not shrink from an investigation of his formula.

The advocates of a better industrial and educational order do not follow Fourier as an unerring leader, or adopt any part of his theory until they know it to be well founded. They are thinkers, and need no human guide. They are honest, and falter not in the path of duty. They are benevolent, and can be happy only in doing something to advance the happiness of man. We are compelled to think favourably of their philosophy as a whole. We believe an epoch of general harmony and felicity, far above our brightest conceptions, awaits the inevitable progress of Humanity. We believe this splendid condition cannot be realized in the present state of competition and antagonism, of avarice and knavery, of destitution and woe. Therefore, we look for a change, a radical change,—and the question arises, what change must be effected? Could avarice, the blighting, seering, scathing pestilence of the times, be eradicated from the human heart,—could every individual be devoted heartily to the only true object of life—elevation and advancement,—could all be warmed with unflinching love to God and man, and seek only the good of all,—could this reform in the moral and intellectual development of man be accomplished without a radical change in the organization of society, perhaps the claims of Association would not so earnestly demand our consideration. But present

institutions are so full of error that they nurse the very elements of destructiveness that must set far distant the day of mental supremacy and spiritual triumph. Why is man avaricious? Because want may possibly afflict him or some of his descendants, because money commands respect and power, and because, by a pernicious falsehood, every one is justified in amassing as much of the wealth or labour of the people as he can obtain, regardless of the poverty occasioned thereby. Why does not every one love God and his fellow? Because avarice and selfishness corrupt the pure fountains of the spirit, and develope the baser passions—and because every one finds himself in hostility with all others in the strife for bread and wealth, and his perverted notions of self-interest lead him to seek gain at the expense of others. Hence, distrust, envy, jealousy and hate, instead of faith, confidence and love. With all the discordant elements at work, a long and desperate struggle would be required to bring about a large accession of physical and intellectual enjoyment. Still the objects of the philanthropist's prayer would be at some day attained; for Truth has dawned, and her light cannot be extinguished.

The great contest of the age is between labour and bread on the one hand, and avarice and capital on the other. In this strife the power and victory are constantly on the side of avarice and capital. The powers of darkness are in the ascendant, and will long, long continue so, unless some powerful recruit can be brought to the aid of the famishing host of the opposite party. The poor cannot eat, but by the permission of the capitalists—they cannot act, but by the command of the wealthy. What hope, then, can there be, of much speedy improvement while this unequal warfare is waged?

The Associationists are rallying to the rescue of labour and bread from the greedy maw of avarice and capital. They bid defiance to their vampire power, and command them to cease bleeding the millions who have for ages wasted their flesh and worn out their bones in obedience to their sacriligious commands. They propose a plan of organization by which the arm of the labouring mass can be strengthened, and the wealth of the world applied to its only legitimate use—that of ministering to the highest good of all. Though we believe a truthful and effectual system can be, and should be adopted by those qualified for it, to secure these great ends, yet we must insist that the Associationists are incorporating in their philosophy some rank and destructive errors. These, however, can be readily corrected, and, hating them, we most heartily bid these earnest and faithful philanthropists, **GOD SPEED.** After stating, briefly, the fundamental principles of their theory, we shall proceed to point out their errors.

These principles are:—

1. That man was designed to attain a position in which sorrow and sighing, occasioned by human error, shall cease,—the intellectual and moral faculties be so developed that the weakest minds shall live and love, know and enjoy far higher delights than our best minds now experience,—and where an abundance of all virtuous gratifications shall be secured to all.

2. In order that man may work out this glorious destiny, the whole creation is at his service, either as the earth, the seasons, the light and heat, the dew and the rains, the flocks, the fruits and the grain, to produce a rich variety of food and clothing by the moderate labour that is required to preserve the vigour of his physical constitution; as a world of beauty and grandeur to develop our passion for the beautiful and sublime; or of science, astronomical, botanical, geological, &c., to call the moral and intellectual powers into masterly activity.

3. That it is the right and duty of every son and daughter of man to acquire the highest possible amount of knowledge and discipline,—that the resources of nature are adequate to the highest elevation of every one, and that condition of things which will not permit an harmonious union of mental and manual labour among the mass, is an outrage against which every law of nature cries aloud.

4. That the present order of things is totally opposed to the highest good of man, and fosters all the wrongs that break down the muscular energies of the labouring mass, and keep the mind in deplorable ignorance, and to which are chargeable all the vice, crime and predominance of vile passions that abound.

5. That all mankind are brethren of one common family, bound to obey one common Father, having a unity of interests which cannot be promoted, except by the harmonious co-operation of all.

6. That man was created a social being, and many of his highest delights made dependent upon love of one another, or that commingling of soul which makes the welfare of one the welfare of all.

7. That the laws of our unity or social character have been grossly violated and misery entailed on the mass, and every one is under a moral obligation to return to God and virtue and reform those grievous abuses.

8. That the powers of wrong have become so strong by fraud, speculation, monopoly, oppression and the engrossment of the means of dignified life by the few, as well as by the false systems of law and morality that prevail, sanctioning and sustaining the most intolerable abuses, that the mass must adopt the most effectual plan suggested by the holy principle of self-defence to resist oppression, and gain their right to "life, liberty, and the pursuit of happiness."

9. That, by uniting together under the common influence of true love in large Associations, each can pursue that species of labour adapted to his happiness, and, by moderate toil, be warranted a competency, the fullest scope of pleasurable enjoyment, and the widest field of intellectual and moral development and gratification.

10. That no one has a right to live without labour, and, therefore, it should be made honourable and attractive. All should pursue it under a moral obligation to get his bread by the sweat of the brow, and where none is compelled to endure a slavish and body-breaking toil, no one will desire to live upon the products of another's labour. Association will accomplish these desirable ends.

We believe the Associations do not press some of the points under the last head, with sufficient force to receive the credit of them. In fact, we shall be able to show, before concluding this article, that, with regard to labour, and its true reward, their philosophy is deficient.

These outline principles we have stated we most heartily endorse. We have the faith and hopes of the Associationists. An organization of industry can secure every one his natural interest in the land, the free gift of God to man, and equalize the products of labour. It can give to labour its rightful advantage in the contest with avarice and capital. Capital can do nothing without labour; it becomes valueless. But labour combined can procure capital, and these united can sway the world in righteousness. Suppose all labourers go into Association—what become of the wealthy who stand aloof in selfishness? They are made as poor as beggars unless they also rally under the banner of love, and condescend to work for physical and intellectual support. Hence, property will become distributed among all without any arbitrary enactments. This is our hope for the labouring man,—and our most ardent prayer is that he may see his true interests, mould himself into the spirit of love and harmony, and “take up arms against the sea of troubles” that beats its dark billows around him. He must look upon the splendid object of life—his elevation in mental and moral dignity—and be charmed into its unflinching and earnest pursuit. He must for ever banish all avarice, ill-will, vice, hate, envy and jealousy, and work for nothing, hope for nothing, desire nothing but advancement to the True and the Good. Without this frame of mind he had better remain where he is, for the pure air of Association would strangle him.

We now proceed to briefly point out the errors incorporated into the Association philosophy. We do so because it is our right and duty. If a radical change is to be effected, it is best to march the whole length of Truth; though perhaps policy would

sometimes dictate a compromise with error, and prudence would sanction it. But there are fatal errors, in our view, which must be corrected before any perceptible progress can be made in realizing the glowing promises of the Associationists.

Let it be borne in mind that the following discussion has reference to that harmony of interests contemplated by Association. What is true in relation to a true order of things, may be wholly impracticable in the present false, hostile, and antagonistic condition. What is true in peace is false in war.—With this explanation we proceed to remark:

1. The first of these errors is, the recognition of capital as one of the productive agents having a rightful claim to a portion of the profits.

What is capital? It is accumulated labour. Has the individual who has it, performed the labour? No, the mass, as a general thing, produced it; though by extra toil and economy a man may accumulate something. What right has the man, holding the proceeds of another's sweat, to profit on it in Association? Or what right has a man who has accumulated a few dollars from his own extra exertions to demand a portion of the profits for its use? If he has property earned by himself that is liable to wear and tear, he has the right to require its full value to be preserved to him; this cannot be called sharing the profits. Has inanimate gold muscle and volition, by which it can earn gold? Suppose an individual has worked very energetically and constantly, and thereby made one hundred days work in fifty: he can spend the fifty days thus gained as he pleases, because he has enough in store to last fifty days. Another person performs just a day's work on each of the hundred days. Now both these persons have done equal amounts of labour, and at the end of the hundred days are in equal conditions as to property, provided the first has not been allowed to accumulate profit on his labour done in advance. Ought they not to be equally situated at the end of that time? Surely the question is readily answered. But, suppose profits are allowed the first; he gains advantage over the other, which he has no right to, because he has not earned it. But worse than this,—the advantage is made out of the other, and, therefore, is his disadvantage; for this profit comes out of the toil of the other, and makes his reward less than it would have been had the first only performed a day's work every day. Rankly unjust, then, is this error of rewarding capital.

But we must press this matter still further. Some may suggest that the labour accumulated by one may be used by others to increase their power of production, and ask if, in such cases, the capitalists are not rightfully entitled to a portion of the increased profits? We readily answer this affirmatively, but insist upon a true estimate of such profits. No rate per cent. or share

of the aggregate gain can be fixed; for, one year there may be a gain and another year a loss; one year more may be made, and another, less,—consequently, there is no rule that will be constantly just. Hence, one of the great advantages of capital over labour, in the present condition of business. Capital commands the same interest, when loaned, whether ordinary prosperity has attended industrial effort, or whether failure has marked every enterprise. Thus labour suffers not only the loss of its own reward, but also the amount borrowed.

Again, in accumulating labour beyond an independency, the resources of others are diminished. Suppose there is demand for \$1000 worth of labour, and ten persons undertake to supply it. Two of these double their portion, and get \$400; there are \$600 left for eight labourers—\$75 each. Have not the resources of the eight been diminished? Allowing \$75 for their individual support, the eight have nothing left, while the two have \$125 each. In gaining this capital the reward of others has been diminished, and will any one say it is just to injure the eight still further by drawing interest out of their labour to pay this capital? This is the way matters work in society to produce so much inequality. Take one more illustration. There is an island containing 5,000 people, cut off from all intercourse with the continents. There is just land enough to support them by moderate labour. Suppose there are 10,000 acres; 1,000 persons toil early and late and occupy 4,000 acres, instead of 2,000. Are not the 4,000 persons driven into a smaller compass by this accumulation of capital on the part of the 1,000? Certainly,—their means are reduced, and they must dispense with some of the delicacies of life, or starve. Shall these 1,000 be allowed a portion of the subsequent profits of the labour of the 4,000, for the use of the capital? The use, better compensate the injury done in getting the capital.

In making the transition from the present to the associative system, great inconveniences and much wrong must be endured. Land, that God designed to be free as air, is put under ban by enormous prices, and the Associationists must buy it; to do which requires money that must be loaned, unless those who possess it have the sense of justice sufficiently active to make them give it, principle and use, or at least its use. The wealthy who enter into Association should give a portion, at least, of their property to the body,—because, 1. They have not earned riches by their own personal toil, at its fair reward,—2. The price of the land ought not to come out of the bone and muscle of the labourer. 3. They will be insured every comfort through life, and private property is of no use to them. Of course, in the infancy of the enterprise, when a risk is ventured, the capitalist should so give his property as not to beggar himself in case of failure.



Associationists, then, must have money to buy the privilege of ploughing the soil; but they should get money, if possible, without making it a draught on their labour; if not, they should strike off the bonds of capital soon as sufficient can be earned to do so. They should never acknowledge the right of capital to a fixed portion of the profits.

2. A second error is, that one can accumulate wealth by his labour, and by usury, and transmit it to his children.

We speak, of course, concerning those in Association, and not of those in the antagonistic state. In the present condition of casualty and dishonesty, each must reap for himself and family; but in the true state, every one who comes into being is guaranteed every comfort, on condition of his performing labour, if able, and, therefore, there is no necessity compelling a father to provide for a family. The whole supply the demands of each.—What right, then, has the father to give his earnings to his son, or his son to receive it? There is in Association a perfect individualism as well as unity, and each is bound by the law of God to earn his own support, if he be strong; if not, others must maintain him. The vigorous son has no more right to the father's wealth than any one else. At the death of each member, his property should go into the common stock. Why? Because, 1. There can be no more wealth than to supply the wants of all. 2. In proportion as one gains, no matter by what means, another loses. 3. The wealth of one being taken from all, should go back to all. Let us make this still plainer. Suppose there are one thousand men in an Association that produces every thing wanted, and holds no commerce with the rest of the world. Suppose they have just land enough under tillage to support them, and one hundred double their period of labour, for the purpose of accumulation. They must employ double the quantity of land they would at their regular toil, and, therefore, the remaining nine hundred would have one-ninth less land to make their profits from. Hence, the facility of the nine hundred would be *pro tanto* diminished. This is the way the mass is beggared. Who, then, will say that one has the right to put forth unnatural exertion to make gain, while any thing thus made is at another's expense?

Put these errors together, and what is the result? Why, in an Association that adopts them, the capitalists have greater advantages than in civilization. Now, enterprise competes with capital, and the stirring young man will draw a portion of what is termed surplus wealth to himself, and thus divide it among a greater number; while, in Association, all chance of speculation is lost, and the capitalist keeps what he has, safely—increased by a portion of the whole profits, and, at death, gives it to his children. Being free from the casualties that attend the use of capital in the old social state, being secured his interest money, and being



above the reach of individual enterprise, his power is absolutely increased. The more assiduously the members work the more he makes without labour. Out with such errors; they have no business in a theory of reform.

Let us now apply an arithmetical argument. Suppose there is an Association of one hundred men, ten of whom own all the capital, which is \$800,000. Suppose twenty exercise all the skill that is rewarded. Labour draws five-twelfths of the gain, capital four-twelfths, and skill three-twelfths: the whole gain \$12,000. \$4,000 belong to the ten who own the capital equal to \$400 each; \$3,000 to the twenty *geniuses*, equal to \$150 each. Now suppose these *geniuses* and capitalists labour with the others; \$5,000 belong to labour, equal to \$250 each; but, instead of sharing according to the labour of each, the capitalist receives \$450, the skillful labourer \$200, and the labourer who performs the most disagreeable duties gets only \$50. What justice is there in such a division as this? Did all share equally as they should do, the income of each would be \$120. Suppose, again, each of the capitalists brings skill as well as labour; his income would then be \$600. Let this item be borne in mind when we come to speak of rewarding talent. We submit to any candid Associationist if the results of these errors are not deplorable in the extreme. Do they not subject the labourer to the mercy of the capitalist almost as effectually as the old social state. *Reform* must mean something.

3. The third error of the Associationists is the gratification they offer to avarice, the basest passion of the perverted mind. The argument on this head can be drawn from two or three pages that precede. But we must here protest, in the name of Progress, against every system that unduly excites to the individual acquisition of wealth. Avarice is now the common failing of mankind. It is the source of more misery and villainy than all other sources combined. It charms the unregenerate with the pomp of parade, the glitter of display, and the respect of fawning fools. It seizes upon the whole man, and takes captive every good and noble quality of his nature. It deadens the susceptibilities, blasts the emotions, and destroys the sense of beauty. It despises spiritual improvement and intellectual advancement. It cheats the honest, robs the unsuspecting, and murders the defenceless, for gold. It is a pestilential breath that poisons, suffocates and corrupts.

4. The Associationists err, fourthly, in rewarding talent.—Mind is the gift of God. To some is given one talent, to another two, to another five, and to another ten. Happiness depends upon the intellectual and spiritual constitution; he who is most favourably endowed possesses the most copious resources, and enjoys the largest amount of pleasure. This is the only legiti-

mate reward of talent. We submit, if the favour of God should be made the agent of extracting from the produce of wearisome toil a part of its earning. Great mental power is given to one that he may benefit his race. He stands up among his fellows, head and shoulders above all, and commands them by his superiority. From him counsel is asked. He gives it and receives the public gratitude for his service. He is provided with powers of body as well as his neighbour; the necessity for their exercise to preserve health is as imperious, and this exercise is sufficient to earn his living. The mental faculties must also be employed; he cannot otherwise be happy. Will you reward that which was designed to dignify its possessor and enhance his enjoyments?

We object to this error, again, because it is partial. Many have talent, and if one is paid for his skill, another must be. But if all were impartially paid the mass would be reduced to beggary.

We object, also, because it acknowledges the aristocracy of talent. The aristocracy of talent is more despicable than that of wealth. Aristocracy originated with, and is the legitimate offspring of, wealth. But its spirit is hostile to the spirit of true talent. All privileges, therefore, secured to skill and talent are unnatural, unjust, and tend to create an aristocracy of mind.

We object, thirdly, because it extravagantly rewards the most pleasurable pursuits, and doles out its pittance to those who follow the most repulsive labour.

We will not pursue this point; it may be fully treated hereafter. Let it be understood, that we have reference only to the Association theory, in making these objections. This theory proposes to give every one all the time requisite for the highest culture of which he is susceptible. In a well established Association a person can perform his quantum of physical labour from the time he had sufficient strength, and at the age of twenty-four be more thoroughly learned than he could have been in the old order of things, had he enjoyed all the advantages which wealth can command. God designed all to be intellectual and spiritual, and Association proposes the means of making him so. Let, then, no such errors as we have pointed out mar its beauty. It is as rational to reward comeliness of person, pleasantness of voice, or gentleness of temper as mental talent.

5. Another error we find in the system of shifting series. By this, it is understood that all the workies shall be divided and sub-divided into parties, and that these parties shall frequently shift from one kind of labour to another. They propose to shift every one or two hours. For instance, one party will hoe cabbages an hour, hoe corn an hour, work in the vineyard an hour, &c. That is much like a student we once knew, who had twelve

different books open before him: Kent's Commentaries, Blackstone, Gibbon, Byron, Pickwick, Pope, Graham's Magazine Chitty's Criminal Jurisprudence, The Scottish Chiefs, Webster's Speeches and Lectures to Young Men. In order that the interest might not flag, and to make study attractive, our ingenious student kept his lever in good repair and devoted just twenty minutes to each book, until he had gone through with the series. The effect of such a system can be readily conjectured. Now we object to this petty shifting because it tends to form trifling habits, which always cause more discontent, even while indulged to the utmost extent, than steady and substantial habits. This is a principle well established—that to excel, a branch of business must be interesting, and followed with diligence and constancy. We do not object to an occasional change for variety; but from our own experience we know that one kind of labour can be followed one, two, or three days, or even a week, with more interest than would attend its pursuit for one, two, or three hours. This error is admirably calculated to raise up a race of superficial and discontented persons.

The errors we have pointed out are not essential to the Associative system. Let them be eradicated and its liberal promises will be more than fulfilled.

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## THE SPIRIT OF THE AGE.

BY GEORGE S. WEAVER.

EVERY nation has a national character, and every age some marked peculiarity, that distinguish them from all others. England is ambitious of power, dominion, and authority; and to secure these objects first in her desires, she grasps with an almost insatiate enthusiasm and puts in requisition every means within her reach. Her statesmen catch this national desire, and burn with an unconquerable zeal for the attainment of its object that rises in glory before them. France delights in etiquette and fashion, and in this respect is the glory and at the same time the curse of the world. Her ministers, her deputies, and her men of leisure, carry this national mark wherever they go, or in whatever circumstances they are placed. A tailor-touched person, a polite and obsequious air, a light and gay heart, and a mirthful and laughter-loving soul, constitute the indispensable requisites of the Frenchman's character. In olden times the Athenians were finished in the refinements of art and learning, and the accomplishments of taste; the Romans were stern in noble virtues,

strong in manliness, and great in moral and physical courage; the Carthagenians were artful, cunning, and given heart and soul to traffic and trade, and the accumulation of wealth. The age of Roman glory was an age of conquest. This desire absorbed all others, and the world was swallowed up in a universal thirst for dominion. Succeeding this was an age more given to peace, and fruitful in moral and religious inquiries; but its influence was soon shrouded in a flood of superstition, bigotry, and persecution, which ushered in and marked in darkness and blood a period of a thousand years. Moral gloom spread her sable pall of more than midnight darkness over that age of intolerance and error; and the world must ever lament that fearful retrogradation in all that is great and good. The age of the reformation followed, and in quick succession the present, which may emphatically be termed an age of improvement, an age of striking and unparalleled advancement in nearly all that civilizes, elevates, and dignifies mankind.

Every department of labour and knowledge, of art, science and literature, of morality, religion and government, attests the great and glorious fact, that the present is highly distinguished above all preceding ages, in the development of the mental, moral, and physical resources of man, and in rendering the agents of the material world subservient to his convenience, comfort, and happiness. The causes which have operated to produce the distinguishing characteristics of the different ages referred to, and especially of this last and most important age of the world, it is not our present object to discuss. They are numerous and complicated, and do not affect materially the object in view, an illustration of the spirit of the present age. The hurried progress we are making in the arts of life and civilization, is a source of high gratification to the utilitarian, the scholar and philanthropist. But while we view with pleasure, and even a degree of honest and laudable pride, all the indications of progression around us, we cannot but feel a deep and poignant regret that a spirit no higher, no more praiseworthy and noble, should be the moving cause, the unseen engine that puts in motion all or nearly all the mental, moral, and physical machinery of the present time. The *love of gain* is the *ruling spirit*, and the *almighty dollar* the *presiding genius* of the age. The one rules supremely in the hearts of a majority of men; the other is the object of their highest desire. Upon the latter an almost affectionate regard is bestowed. It is the golden image worshipped by the world. It is preserved, treasured, admired and loved. It purchases distinctions, honours, favour, friendship, love, and the world's approving smile. It mends defects in moral character, gilds with a golden hue the blackened heart, covers a multitude of sins, and makes almost a saint of a very demon. It matters not how wealth is obtained; he who

has it holds a conspicuous place in the estimation of the world. Men approach him with deference, obsequiously court his favour, impress him with an excellent notion of his importance, and do all that flattery and adulation can do to convince him that the god of mammon which he worships is the god of the world. The man of wealth is heralded round the world as though there was something really meritorious in its possession. The questions are never asked, how many deceptions have been practiced, falsehoods told, oaths broken, honest men ruined, orphans deprived of their just dues, and widows left to sorrow and suffer in penury and want, by its accumulation. Is he rich? is the all-important question. If answered in the affirmative, the cap is doffed, the bow made, the smile given, and the air of respect assumed and generally felt in his presence. So strong is the love of gain, so high does this all-absorbing spirit of the age rise, that wealth is the almost indispensable requisite for obtaining the world's favouring smile. To say the least, nothing is more sure of universal approval, nothing more essentially assists a man to an important place in the eyes of the world, nothing more certainly ensures him the attention of the influential and ambitious, the flattering and time-serving, than vast golden treasures. To the universal eye, gold eclipses every thing else. For this, beyond what is actually necessary for the wants of life, more time, more ability, and more energy are expended than for every thing else. It is the grand object of universal search. Nothing else has so inveterate a grasp upon the souls of the present age as the love of wealth. Nothing else so completely absorbs their undivided interest, nothing else so indissolubly binds them to earth and its pursuits, as this unholy passion. Supreme in its dictation, man's best energies are devoted to its gratification. Unholy and selfish in its desires, his selfish feelings are the objects of its cultivation. In the insane search for wealth, nobleness of soul and dignity of character are lost sight of. Benevolence, charity, and the Christian virtues, have no part in it. The higher sentiments are made subservient to the money-getting passion, which has become so strong as to have every indication of a moral mania. If mind is cultivated, it is to increase the ability to accumulate and hoard up the shining store. The scholar and the professional man, who have spent years of weary toil and study, have plodded diligently through musty volumes of ancient lore, sounded the deep depths of science, learned and meditated upon the philosophy of every age, and scanned and criticised the literature of every language, expect an equivalent for their labours, in the gold their learning will bring them. It is true the applause of the world is an incentive to action and severe study, and the intrinsic love of knowledge renders study pleasant and meditation agreeable; but under the present state of public interest in pursuits purely intel-

lectual, few indeed would scale the rugged hill of science, or rise by close application and severe and untiring study to an honourable and lasting fame, were it not for the gold that glitters behind all other inducements. The politician loves the dear people, loves the principles he espouses, loves to promote the political well-being of his country and his race; but beneath all this is a love of the gains of office, a love of the spoils of political conquest, which urges him on to labour and toil for the attainment of the glittering object of his ambition. The national purse holds the object of many a political aspirant's aim, the gem that dazzles the eye, the allurements that entrances the hearts of nearly all who seek the honours of office. A rich living, an ample salary, makes office desirable, and its honours delightful to be borne. Principles are purchased with gold, political virtue is bought and sold, and opinions are the objects of traffic. Candidates for office who are liberal with their money, will be liberally rewarded with popular suffrage. Men who dream not that they are venal, who deem their principles founded on the rock of eternal truth, will be lured away from them by the promise of sudden wealth, or even glimmering hopes of a golden reward. Talk of laws that will make times easy and money plenty, and the universal ear is listening; and though they be founded on principles radically wrong, principles that the unbiassed judgment of the people would condemn, their expediency in opening an easy road to golden treasures will set them all aright. Prove that wealth will follow their adoption, and you make them just and right in the general judgment. Turn over our statute books, and money, or property its equivalent, will be found to be the object of nine-tenths of the laws there inscribed. The regulations of currency, of trade and traffic, are the engrossing themes of legislative wisdom, of forensic eloquence, and universal conversation. The press is literally burdened with essays, expositions and dissertations upon these fruitful subjects. Should a messenger from another planet visit our earth, read our laws, see the business, and become acquainted with the thoughts of our people, he would scarcely learn that any other object than money claimed the attention of civilized man. He would learn that money is the Archimedian lever by which all things here are moved, that an inordinate thirst for gold was the propelling spirit of the age; and if he should any where hear the trite old saying "money makes the mare go," he would be convinced of its truth. Would you be respected and receive the favour and adulation of the many? amass a rich store of glittering gold, revel in its lights, and be burnished by its blaze. Would you have a friend? show him a well filled purse, and let his hand occasionally unloose its strings. Would you seek the affections of the fair, the hand of the lovely? bring wealth and its glitter, and success is yours. With us every



thing has its price; offer that, and the object is yours. Venality is the mark of the age, and nothing is too pure or too sacred to escape it.

That the predominant spirit of the age is a love of gain, there can be no doubt; and that it is often carried to such excess as to produce avarice in its most disgusting form, and foster all that is arrogant, narrow, and selfish in man,—and that its tendency is to make him more selfish and less benevolent, more bigoted and insolent and less charitable and forgiving, to degenerate rather than elevate his feelings, to debase rather than dignify his character, is equally clear and true.

This spirit is a most powerful stimulant to action; and that man propelled by its force should make rapid improvements, and influenced as he is by other and better feelings, should rise in the scale of intellectual and moral worth, is not in the least strange or unaccountable, but just the result that we should expect from a knowledge of his nature. His natural desires for good, his kindly sympathies, his noble and truly genuine goodness of soul, stamp with the image of his Maker, forbid that any influence, however strong, should deter him from the performance of many noble deeds, and the cultivation of many high and holy feelings.

But could those energies which are spent in the accumulation of wealth, which are wasted in gaining a surplus of this world's goods, be devoted to the cultivation of the mental, moral, and religious man, and the performance of mental labour for the general good; could man be induced to live more in the intellectual and spiritual world, and less in the physical, and labour as assiduously for the solid enjoyments of doing good, and securing the invaluable riches of intellect, as he now does for the phantasmal and delusive joys of pecuniary wealth, his progress in improvement, his rise in all that elevates him in the scale of being, would be far more rapid than it now is, and permanency would mark his advancement in civilization.

Because under the present state of things man has risen to unexampled greatness, and eclipsed all the glory of ancient time, is no good reason why under an improved state of things he might not far surpass any thing he has yet done, and find higher and nobler enjoyments than any with which he is yet acquainted, nor why a better condition of things should not be established. Should the improvement of himself, of the whole man, mental, moral, social, and physical, engross more of his attention, and the accumulation of monied treasures less, his condition for rational enjoyment would be greatly improved, and the sources from which flow earth's highest happiness would swell and gush forth with increased fullness and vigour. Just in proportion as man is civilized, his capacity for enjoyment is increased. If the whole man is cultivated, the more numerous the sources of hap-



pinness, and the more full, perfect, and complete the quality of happiness consequent upon that cultivation. Man's happiness depends upon his activity, the activity of his whole being, of every member, faculty, sentiment, and feeling of his constitution. Hence, if the greatest possible amount of happiness is the object of mankind, and that happiness the most rational and elevated, they should seek the greatest cultivation of the greatest possible number, and that cultivation the most full and complete. Under the influence of the present spirit, this object is far from being secured. The great amount of cultivation at present is intellectual, to the neglect of the moral, physical, and social. And the energy of the age is so directed in channels that lead to no holy fountain, open only to a golden treasure, and to none richer and higher, that it does not secure the true object of life, nor produce the effect desired and expected. The enjoyments of wealth are delusive in the extreme; and he who trusts to them, and them alone, fails to secure the object of his search, and is cheated of life's great blessing, the happiness consequent upon a rational progression in the scale of being.

Let progression in man's whole being mark his course, and that progression all his time and ability will allow him to make, and he is sure of a rich reward in life's golden day. Let all make this their aim, and all would be certain of the glorious result. The cultivation of one's own self, is within every one's reach. Let this be effected, and the stride that man would make in the scale of being, would be gigantic indeed; he would eclipse in a blaze of meridian glory, the flickering light of the present age, and prove the glorious truth that "*Goodness, greatness and happiness, are the birthright of every son and daughter of humanity.*"

DARTON, OHIO, MARCH, 1846.

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#### CROMWELL.\*

CARLYLE opens his work with a chapter entitled Anti-Dryasdust; in which he complains of the stupidity that characterises English history with regard to the Heroisms of the past. Speaking of English Puritanism, he says: "Few nobler Heroisms, at bottom perhaps no nobler Heroism ever transacted itself on this earth; and it lies as good as lost to us; overwhelmed under such an avalanche of Human Stupidities as no Heroism before ever did." He thinks the people of the eighteenth and nineteenth centuries have thus far reposed in the lap of dullness,—dead to the valour

\* The Letters and Speeches of Oliver Cromwell. By Thomas Carlyle.

and virtue of the seventeenth century,—listless to the earnest and heroic spirit of the Puritans, of whom Cromwell was the Prince of Heroes,—deaf to the deep utterances and life-giving sentiments that proceeded from the very Holy of Holies of their souls. He says: "The Christian Doctrines which then dwelt alive in every heart, have now in a manner died out of all hearts,—very mournful to behold; and are not the guidance of this world any more. Nay, worse still, the Cant of them does yet dwell alive with us, little doubting that it is Cant,—in which fatal intermediate state, the Eternal Sacredness of this Universe itself, of this Human life itself, has fallen dark to the most of us, and we think that too a Cant and a Creed." He thinks the present age hypocritical, skeptical, infidel, and destitute of Belief. Doubtless it is too much so; but we protest against that discontented and disheartening spirit that prompts so many to decry and libel their own times. The fact is, this age is not a whit behind in the exercise of all the Veracities and Heroic Virtues which can dignify the human character. The present, and the age of Puritanism, are different ages in many respects. Plainly, the latter was barbarous, compared with the enlightenment of the present. Let, then, all due allowances be made for the Puritans, let all our advantages be considered, and we believe the nineteenth century will not suffer in comparison with the seventeenth or any other century.

But let us attend to what Carlyle says of this man Oliver. He was born at Huntingdon, in St. John's Parish there, on the 25th of April, 1599. Following this information, is a long account of his kindred, which is neither here nor there, and which Oliver himself would laugh at, could he come and read it. He was the only son among seven children. He attended the public school at Huntingdon, conducted by Dr. Beard.

To understand a man, we must look to the influences that bore upon his youth,—the spirit of the times. "In January, 1604, was held, at Hampton Court, a kind of Theological Convention. It was a meeting for the settlement of some dissentient humours in religion. The 'Monster Petition,' signed by near a thousand Clergymen of pious straitened consciences, and various other petitions by persons of pious straitened consciences, had been presented to his Majesty; craving relief in some ceremonial points, which, as they found no warrant for them in the Bible, they suspected to savour of Idol-worship, instead of God-worship, and to be very dangerous indeed for a man to have concern with. Hampton-Court Conference was accordingly summoned. Four World-famous Doctors, from Oxford and Cambridge, represented the pious straitened class, now beginning to be generally nicknamed Puritans. The Archbishop, the Bishop of London, also world-famous men, with a considerable reserve of other Bishops,

deans and dignitaries, appeared for the Church. Lord Chancellor, the renowned Egerton, and the highest official persons, many lords and courtiers with a tincture of sacred science, in fact the flower of England, appeared as witnesses; with breathless interest. The King himself presided; having real gifts of speech, and being very learned in Theology,—which it was not then ridiculous but glorious for him to be. More glorious than the monarchy of which we now call Literature would be; glorious as the faculty of a Goethe holding *visibly* of Heaven: supreme skill in Theology then meant that. To know God, the Maker,—to know the divine Laws and *inner* Harmonies of the Universe, must always be the highest glory for a man! And not to know them, always the highest disgrace for a man, however common it be!”

“Awful devout Puritanism, decent dignified Ceremonialism appeared here facing one another for the first time. The demands of the Puritans seem to modern minds very limited indeed: That there should be a new correct Translation of the Bible (*granted*), and increased zeal in teaching (*omitted*); That ‘lay impropriations’ (tithes snatched from the old Church by laymen) might be made to yield a ‘seventh part’ of their amount, towards maintaining ministers in dark regions which had none (*refused*); That the Clergy in districts might be allowed to meet together, and strengthen one another’s hands as in old times (*passionately refused*);—on the whole, That pious straitened Preachers in terror of offending God by Idolatry, and useful to human souls, might not be cast out of their parishes for genuflections, white surplices and such like, but allowed some Christian liberty in mere external things: These were the claims of the Puritans; but his Majesty eloquently scouted them to the winds, applauded by all bishops and dignitaries, lay and clerical; said, If the Puritans would not conform, he would ‘hurry them out of the country;’ and so sent Puritanism and the Four Doctors home again, cowed into silence, for the present.”

Such were the matters talked of in his father’s house when Oliver was in his fifth year.

“In November, 1605, there likewise came news of the thrice unutterable Gunpowder Plot. Whereby King, Parliament, and God’s Gospel in England, were to have been, in one infernal moment, blown aloft; and the Devil’s Gospel, and accursed incredibilities, idolatries and poisonous confusions of the Romish Babylon, substituted in their room! The eternal Truth of the Living God to become an empty formula, a shamming grimace of the Three-hatted Chimera! These things did fill Huntingdon with talk enough in Oliver’s sixth year.”

Such were the stirring themes of the period of Gromwell’s boyhood. They were many, bold and startling. Oliver was, doubtless, silent, but he was not dull. He doubtless pondered

these things, and, before long, was enabled to look to the bottom of them. The mind at this time was kept *full* of news, and never wanted for pabulum.

In 1616 Oliver entered Sidney-Sussex College, while William Shakespeare was taking his farewell of this world. "The first world-great thing that remains of English History, the armed Appeal of Puritanism to the Invisible God of Heaven against many visible devils on earth and elsewhere, was, so to speak, beginning."

In 1617 Oliver's father died, and he returned no more to College but took his father's place at Huntingdon. Some of his biographers have made it appear that he commenced the study of the law in one of the Inns of Court; but Carlyle thinks he "entered himself merely in the chambers of some learned gentleman, with an eye to obtain some tincture of Law for doing county magistracy, and the other duties of a gentleman citizen, in a reputable manner." The stories of his wild living in town, of his gambling, and so forth, Carlyle does not believe.

On Thursday morning, October 29th, 1618, while Oliver was in town, dusting the tomes of legal lore, he might have witnessed the last scene in the life of Sir Walter Raleigh; who had just returned from his search after Eldorados in the Indies, brain benumbed and heart broken. He had failed, and, also, succeeded in many things in his time. He was beheaded in the old palace yard, on a cold morning, before the upturned faces of an immense multitude. He had grown gray; and, though his heart was "breaking," there was strength enough in it to break with dignity. "Somewhat proudly he laid his old gray head on the block; as if saying in better than words, 'There, then!' The Sheriff offered to let him warm himself again, within doors again at a fire. 'Nay, let us be swift,' said Raleigh; 'in a few minutes my ague will return upon me, and if I be not dead before that, they will say that I tremble for fear.'—If Oliver saw this scene he doubtless did not want for reflections on it."

Oliver was married on the 22d of August, 1620. He moved to his paternal home, where he continued for almost ten years; farming, and attending to all the duties of a good citizen. About this time he became a Calvinistic christian—a true Puritan; "believed in God, not on Sundays only, but on all days, in all places, and in all cases." The Puritans now became numerous. "John Hampden, Oliver's cousin, was a devout Puritan, John Pym the like; Lord Brook, Lord Say, Lord Montague,—Puritans in the better ranks, and in every rank, abounded. Already either in conscious act, or in clear tendency, the far greater part of the serious Thought and Manhood of England had declared itself Puritan."

In 1627 Oliver was Captain in the Parliament's service.—

Charles I. was now king, and had commenced his warfare with Parliament. That of 1628-9 of which Oliver Cromwell, Esq. was a member for Huntingdon, was the most notable of all Parliaments till Charles' Long Parliament met, which proved his last. "Having sharply, with swift impetuosity and in indignation, dismissed two Parliaments because they would not 'supply' him without taking 'grievances' along with them; and meanwhile and afterwards, having failed in every operation, foreign and domestic, at Cadiz, at Rhe, at Rochelle; and having failed, too, in getting supplies by unparliamentary methods, Charles consulted with Sir Robert Cotton 'what was to be done;' who answered, summon a Parliament again." So this his third Parliament met and continued with one prorogation for one year; the other two had been spitefully dissolved after a few weeks' session. In this Parliament were Wentworth, (Strafford,) Hampden, Selden, Pym, Holles, our Cromwell and others well known. The honest, stern Puritan spirit strangely pervaded this Parliament; it was more intent on rigorous Law and divine Gospel than any other had ever been. The members were deeply imbued with religious sentiment, and the prayer arose from the hearts of all, "O Sacred Majesty, lead us not to Antichrist, to Illegality, to temporal and eternal Perdition." The King was tyrannical and obstinate; he chafed and stamped with rage—but he had men to deal with. This was the Parliament that framed the Petition of Right which put all London astir with "bells and bonfires." It discussed many great questions. National grievances were considered with deep sincerity. "Sir Robert Phillips of Somersetshire spake and mingled his words with weeping. Mr. Pym did the like. Sir Edward Cook (Coke upon Littleton) overcome with passion seeing the desolation likely to ensue, was forced to sit down when he began to speak, by the abundance of tears. The Speaker in his speech could not refrain from weeping and shedding of tears. Besides a great many whose grief made them dumb. But others bore up in the storm, and encouraged the rest." They were about to name the Duke of Buckingham as the cause of most of the National calamities both at home and abroad, when a message was received from the King, adjourning the Parliament till the next morning, and forbidding the transaction of any business in the interim either by Committees or otherwise. "This scene Oliver saw, and formed part of; one of the memorablest he was ever in. Why did those old honourable gentlemen 'weep?' " How came tough old Coke upon Littleton, one of the toughest men ever made, to melt into tears like a girl, and sit down unable to speak?

The remonstrance against Buckingham was perfected, and his Majesty saw it good to confirm and ratify the Petition of Right; which made all London sonorous with rejoicing.

"The day of prorogation was the 26th of June. One day in the latter end of August, John Felton, a short, swart Suffolk gentleman of military air, in fact a retired lieutenant of grim, serious disposition, went out to walk in the eastern parts of London. Walking on Tower Hill, full of black reflections on his own condition, and on the condition of England, and a Duke of Buckingham holding all England down in the jaws of ruin and disgrace, —John Felton saw, in evil hour, on some cutler's stall there, a broad sharp hunting knife, price one shilling. John Felton with a wild flash in the dark heart of him, bought the said knife; rode down to Portsmouth with it, where the Duke then was; struck the said knife with one fell plunge, into the great Duke's heart." So the Nation was delivered from one tyrant; but John Felton was tried and executed at Tyburn. While his body was swinging in chains at Portsmouth the Parliament re-assembled, and Oliver came with it.

This Session (1629) was brief but energetic. "'Tonnage and Poundage,' what we now call Custom-house Duties, a constant subject of quarrel between Charles and his Parliaments hitherto, had again been levied *without* Parliamentary consent; in the teeth of old *Tallagio non concedendo*, nay, even of the late solemnly confirmed Petition of Right; and naturally gave rise to Parliamentary consideration. Merchants had been imprisoned for refusing to pay it; Members of Parliament themselves had been '*supena'd*': there was a very ravelled coil to deal with in regard to Tonnage and Poundage. Nay, the Petition of Right itself had been altered in the printing; a very ugly business too."

Matters of religion looked equally ill. "Base fawning sycophants" had been exalted to high stations in the Church. Puritanism would have no compromise with Catholicism, and a number of the leading bishops were very much inclined to Papistry. These things could not be tolerated. The House resolved itself into a Grand Committee on Religion. In this Committee, on the 11th of February, 1629, Oliver made his first speech, a fragment of which has found its way into History. He said, "He had heard by relation from one Dr. Beard (his old schoolmaster), that Dr. Alabaster had preached flat Popery at Paul's Cross; and that the Bishop of Winchester (Dr. Neile) had commanded him as his Diocesan, He should preach nothing contrary. Mainwaring, so justly censured in this House for his sermons, was by the same Bishop's means preferred to a rich living. If these are the steps to Church-preferment what are we to expect!" Whereupon it was ordered that "Dr. Beard be written to by Mr. Speaker to come up and testify against the Bishop; the order for Dr. Beard to be delivered to Mr. Cromwell." This is the first mention of Mr. Cromwell's name in the Books of any Parliament.

A new remonstrance was to be resolved upon. Bishops Neile



and Laud were to be named. But the King hastily interfered and the Parliament, in a fortnight more, was dissolved; and that under circumstances of the most unparalleled sort. Speaker Finch was in constant communication with the King, and while these matters were astir, Speaker Finch refused to put the question when ordered by the House! "He said he had orders to the contrary; persisted in that;—and at last took to weeping. What was the House to do? Adjourn for two days and consider what to do! On the second day which was Wednesday, Speaker Finch signified that by his Majesty's command they were again adjourned till Monday next. On Monday next, Speaker Finch, still recusant, would not put the former, nor indeed any question, having the King's order to adjourn *again* instantly. He refused; was reprimanded, menaced; once more took to weeping; then started up to go his ways. But young Mr. Holles, Denzil Holles, the Earl of Clare's second son, he and certain other honourable members were prepared for such a movement: they seized Speaker Finch, set him down in his chair, and by main force held him there! A scene of such agitation as was never seen in Parliament before. The House was much troubled. 'Let him go,' cried the King's ministers imploringly, 'let Mr. Speaker go.' 'No!' answered Holles; 'God's wounds, he shall sit there, till it please the House to rise.'" The House, with their Speaker held down, locked the doors, passed by acclamation Resolutions protesting against Armenianism, Papistry, and illegal Tonnage and Poundage; whereupon they vanished swiftly, for they understood the Soldiery was coming. The leaders of the House were fined and imprisoned for this, and Sir John Eliot refusing to submit was retained in the Tower till he died.

This was the last Parliament in England for eleven years.—The King resolved to work his way alone, and went on raising supplies without law, by all conceivable devices. The Spiritual leaders united with the King to make the burden as heavy upon the people as possible. "The English Nation was patient; it endured in silence, with prayer that God in justice and mercy would look upon it. The King and his chief-priests were going one way; the Nation of England by eternal Laws was going another: the split became too wide for healing. Oliver and others seemed now to have done with Parliaments; a royal Proclamation forbade them so much as to speak of such a thing."

In 1630 Oliver Cromwell was elected one of the Justices of the Peace for Huntingdon. In 1631 he enlarged his operations as a Farmer by renting certain grazing lands at St. Ives. Thus he settled down in the quiet pursuits of the Husbandman, not dreaming of the wide destinies appointed him on earth.

During this time Attorney-General Noy was busy gathering money for the King; creating monopolies, such as the manufac-



ture of soap, &c. The old manufacturers of soap were broken up and this article become unattainable. In 1634 came out the celebrated Writ of Shipmoney. This was Noy's last feat. He was a morose Law-Pedant, and had been a Patriot in Parliament till made Attorney-General. He died just as the Writ came out, and the people honoured his death by bonfires and drinking "lusty carouses." Many curious things are told of his appearance after death. "His heart, on dissection, was 'found all shrivelled up like a leather penny purse,' which gave rise to comments among the Puritans. His brain, said the pasquinades of the day, was found reduced to a mass of dust, his heart was a bundle of old sheep skin writs, and his belly consisted of a barrel of soap."

"The Shipmoney Writ has come out then; and cousin Hampden has decided not to pay it!" Let a mark be placed here and we will come to it again soon.

We will not stop to notice the incidents connected with Oliver's residence at St. Ives; his raising cattle and sheep, and branding with O. C.; his plowing, sowing, reaping, &c. Suffice it to say, he was not confined to himself exclusively, but kept an eye out to public good.

In 1624 the Puritans had made up a fund called Feoffee fund for supplying by Lecturers the want of regular Clergymen. To show the spirit of this man Oliver we will quote from his first extant letter dated January 11, 1635, relating to the "Lecture," and addressed to his "loving friend, Mr. Storie." Carlyle has corrected the spelling. "It only remains now that He who first moved you to this, put you forward in the continuance thereof: it is the Lord; and therefore to Him lift up we our hearts that He would protect it. And surely, Mr. Storie, it were a piteous thing to see a Lecture fall, in the hands of so many able and godly men, as I am persuaded the founders of this are; in these times, wherein we see they are suppressed, with too much haste and violence, by the enemies of God's Truth. Far be it that so much guilt should stick to your hands, who live in a City so renowned for the clear shining light of the Gospel. You know, Mr. Storie, to withdraw the pay is to let fall the Lecturer: for who goeth to war at his own cost? I beseech you therefore in the bowels of Jesus Christ, put it forward, and let the good man have his pay. The souls of God's children will bless you for it," &c. This is one of Oliver's characteristic Utterances—deeply earnest and firmly persuasive. It shows the kind of religious enthusiasm that sustained the Lecture system against all the pious hounds of the times. On the very day that Oliver was writing this letter at St. Ives, "John Hampden, Esquire," was sternly refusing to pay the Assessors of Shipmoney his assessment, in Buckinghamshire; for which he was tried.

Soon after this Oliver removed to Ely, from which his second

letter is dated. Some events are now to be noted. "On the 30th June, 1637, in old Palaceyard, three men, gentlemen of education, of good quality, a Barrister, a Physician and a Parish Clergyman of London, were set on three Pillories; stood openly as the scum of malefactors, for certain hours there; and then had their ears cut off,—bare knives, hot branding-irons,—their cheeks stamped 'S. L.' Seditious Libeller; in the sight of a great crowd, 'silent' mainly and looking 'pale.' The men were our old friend William Prynne,—poor Prynne who had got into new trouble, and here lost his ears a *second* and final time, having had them 'sewed on again' before; William Prynne, Barrister; Dr. John Bastwick; and the Rev. Henry Burton. Their sin was against Laud and his surplices, not against any other man or thing.—Prynne, speaking to the people, defied all Lambeth, with Rome at the back of it, to argue with him, William Prynne alone, and these practices were according to the law of England; 'and if I fail to prove it,' said Prynne, 'let them have my body at the door of that Prison there,' the Gate-house Prison. 'Whereat the people gave a great shout,'—somewhat of an ominous one I think. Bastwick's wife, on the scaffold, received his ears in her lap, and kissed him. Prynne's ears the executioner 'rather sawed than cut.' 'Cut me, tear me,' cried Prynne; 'I fear thee not; I fear the fire of Hell, not thee.' The June sun had shone hot on their faces. Burton, who had discoursed eloquent religion all the while, said, when they carried him, near fainting, into a house in King-street, 'It is too hot to last.'" Such was the puritan spirit. At Edinburgh on Sunday the 25th of July following, Archbishop Laud brought his Scotch Liturgy and Scotch Pretended-Bishops into action,—and Jenny Geddes hurled the stool at their head, saying, "Thou foul thief, wilt thou say *mass* at my lug? I thought we had got done with the mass some time ago;—and here it is again!" "A Pope, a Pope!" cried others, "Stone him!"—In fact the services could not go on at all. Jenny's stool was the signal of commotion. All England, Scotland and Ireland rose into unappeasable commotion, and his Grace of Canterbury, and King Charles himself, and many others had lost their heads before peace could be restored. In November of this year the trial of Hampden commenced; it lasted three weeks and three days, and resulted in conviction. He was fined. Other exciting occurrences were taking place daily.

We will now give an Utterance of Oliver from Ely. We cannot quote all the letter. "Truly no poor creature hath more cause to put himself forth in the cause of God than I. I have had plentiful wages beforehand; and I am sure I shall never earn the least mite. The Lord accept me in His Son, and give me to walk in the light,—and give us to walk in the light, as he is in the light! You know what my manner of life hath been. Oh,

I lived in and loved darkness, and hated light; I was a chief, the chief of sinners. This is true; I hated godliness, yet God had mercy on me. O the riches of his mercy! Praise him for me;—pray for me, that He who hath begun a good work would perfect in the day of Christ," &c. "O modern reader," says Carlyle, "dark as this letter may seem, I will advise thee to make an attempt towards understanding it. There is in it a 'tradition of humanity' worth all the rest. Indisputable certificate that man once had a soul; that man once walked with God,—his little life a sacred Island girded with Eternities and Godheads. Was it not a time for heroes? Heroes were then possible. I say thou shalt understand that letter. \* \* \* Yes, there is a tone in the soul of this Oliver that holds of the Perennial. With a noble sorrow, with a noble patience, he longs towards the mark of the prize of the high calling."

The Scotch having become too rebellious, and his Majesty having burned their paper declarations "by the hands of the common hangman," and almost cut off the head of the Scotch Chancellor Loudon, resolves to summon a Parliament to vote him supplies for chastising the rebel Scots with an Army. This Parliament met on the 13th April, 1640, and Cromwell was a member from Cambridge. It, being too stubborn, the King dismissed in a huff on the 5th May, and is called the *Short Parliament*. Charles was forced to resort to other methods for raising money. Some of his favourites subscribed largely; the Earl of Strafford gave 20,000*l*. The King managed to get an army on foot and despatched it towards the Scotch Border. The soldiers called this the *Bishop's War*; mutined, shot some of their officers, and wherever they met a Puritan Clergyman gave him three cheers. This was therefore speedily terminated without doing much harm to the Scots.

In this posture of affairs, Charles was forced to ask Parliamentary aid again; and accordingly he summoned a Parliament to meet on the 3d of November, 1640, which met, and well earned the name of the *Long Parliament*. "It accomplished and suffered very singular destinies; suffered a Pride's Purge, a Cromwell's Ejectment; suffered Re-instatements, Re-ejectments; and the *Rump* or Fag-end of it did not finally vanish until the 16th of March, 1660. Oliver Cromwell sat in this Parliament for Cambridge Town."

To this Parliament the people looked for protection against the exactions of the King and the intolerance of the Bishops. Petitions poured in from all quarters, and the political and ecclesiastical elements were raised into a prodigious storm. Reports of "plots" to sustain Majesty were abundant, and occasioned much excitement both in doors and out. To add to the commotion, the Irish Catholics, in imitation of the Scotch Presbyterians, were

in open rebellion. The Commons decided on a "Grand Petition and Remonstrance," setting forth their grievances and what they would have the King do. The debate on this was terribly warm; so that, in the language of one of the members, "had it not been for Hampden's soft management we had like to have sheathed our swords in each others bowels." Parliament was by no means asleep,—for it forced the King to mind his own business with regard to its breaking up, and let it sit according to its pleasure. The King seeing the conflagration begin to blaze, thought it prudent to remove the fire-brands in season, and accordingly presented himself with an armed force at the door of Parliament; for Pym, Hampden, Haselrig, with Holles and Strode, (who held down Speaker Finch, fourteen years before,) of the Commons, and Mandevil of the Lords; but lo, the birds had flown to the city, to which place the Parliament also soon moved, 'to be safe from armed violence.' The cards were now fairly shuffled for a decisive game between the Commonwealth on one side, and the King and Bishops on the other. He sent his Queen to Dover, for safety, and to pawn the Crown-jewels for arms. He returned northward, avoiding London. Many messages between the Houses of Parliament met him: "Will your Majesty grant us power of the militia for a short time?" "No, by God," answers his Majesty, "not for an hour." It was now the Commonwealth and the King,—and the question put itself to every English soul, Which will you obey? and all around the swords getting out of their scabbards, were solving it. Cromwell soon went down to Cambridgeshire to drill the people there in their defence. Other members did likewise. Mr. Hampden became Colonel; Cromwell, Captain; and his son, Oliver, Cornet. On the 23d October, 1642, Edgehill battle came off; but the fight was indecisive—the victory being claimed on both sides. "Captain Cromwell told his cousin, Hampden, they never would get on with a set of poor topsters and town-apprentice people, fighting against men of honor. To cope with men of honor, they must have men of religion." Hampden thought it a good notion, if it could be executed, and Cromwell set himself about the matter.

Early in 1643, Captain Cromwell became Colonel, and paraded his troops about the country, attending to disaffected persons, dispersing royalist assemblages, seizing royalist plate, and seeing that the Parliament cause suffered no damage. In the discharge of this duty, it became necessary for him to utter himself a little to Robert Barnard, who had formerly been his fellow Justice of the Peace, but differed with him in politics and religion. Here is an extract of a letter to him: "It is true, sir, I know you have been wary in your carriages: be not too confident thereof. Subtily may deceive you; integrity never will. With my heart I shall desire that your judgment shall alter, and your practice. I came

only to hinder men from increasing the rent,—from doing hurt; but not to hurt any man; nor shall you; I hope you will give me no cause. If you do, I must be pardoned what my relation to the people calls for.” Rather firm, this letter. Oliver now became Colonel Cromwell: Colonel of a troop of horse raised on his own principles. He rose from one station to another, of influence and power, until he stood at the helm of the national ship and steered her safely over the dashing billows. He proved himself emphatically the hero of the age.

We have gone over but a small part of the volumes before us, but our space will not permit us to go further. We have given an idea of the crisis which called from obscurity the man for the times, and placed him at the head of a revolutionized nation. We shall take up these books again, and inquire more particularly into the spirit of this man, Oliver, as developed in the letters and speeches before us, give an account of his triumphant course, and notice the achievements of this stormy period in the cause of human progress.

#### HUMAN RIGHTS.\*

IN the first number of the Journal and Review we examined the first three chapters of this work on the origin and foundation of rights and the constitution of government. In this paper, we shall investigate the views of the author in the fourth and fifth chapters on Constitutional Limitations and Prohibitions.

As the people are sovereign—that is, empowered to do every thing, either *per se* or *per alios*, that will secure their highest good—the Constitution which gives to government a palpable form, should invariably be adopted by their direct votes. In this instrument, the people embody those general instructions by which their agents shall be governed in the discharge of their legislative duties. It provides, first, for organizing the three natural departments of all government: the Legislative, Executive, and Judicial. Secondly, it defines their powers, and provides the necessary checks against encroachment, the one on the other; and finally, it contains such limitations and prohibitions to legislative action as are deemed essential to the preservation of individual and public rights.

The true province of the Legislative branch, is, to declare the laws that shall be enforced; of the Executive, to see that the laws are enforced, and of the Judicial, to determine the constitu-

\* Essays on Human Rights and their Political Guaranties. By E. P. Harlbert, Counsellor at Law, in the City of New York. Greely & McElraith, 1845.

tionality of any enactment, when a citizen shall deny its validity and appeal to her tribunal. Permit us here to advance a doctrine that may be somewhat novel, to wit: that the Judiciary should be governed in its decisions not only by the limitations and prohibitions contained in the constitution, but also by those of the great moral constitution, which is above all and immutable, and to which the written constitution, as far as it goes, ought always to conform. If an enactment be not opposed to the written, it may be to the unwritten constitution, and if so, it should be declared null and void by the court. If the people will have an immoral enactment enforced, it should be by special constitutional provision. The judges must, of course, be governed by the written constitution, and when an unjust statute is made, though not opposed to any provision of the constitution, they should never hesitate to declare it null. Every moral being, no matter in what capacity he may act, ought, in all he may do, to conform to Natural law as indicated by the sense of justice implanted in his mind. It should govern the judge as well as the legislator or private citizen. No man ought ever to be compelled to obey a law that is immoral, or, which is the same thing, unjust; neither should a judge be bound to decide a statute valid, that is in truth, or, according to his perception of truth, invalid. When the voice of the people, through their constitution, declares he shall violate his conscience, he ought to resign at once and maintain the dignity of his moral nature. Are not these views sound? If they are, and were acted upon, we think but very few constitutional limitations or prohibitions would be requisite to secure the rights of the people individually or collectively.

This doctrine is plainly laid down by Sir William Blackstone, in his Commentaries, Book I., page 41. "The law of nature," (which we call the moral constitution of God,) "being coeval with mankind, and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times: no human laws are of any validity, if contrary to this; and such of them as are valid, derive all their force, and all their authority, mediately or immediately, from this original." This passage is pregnant with truth. It declares no enactment obligatory, unless it be a law of nature. Suppose an immoral statute enacted; it has no authority, no binding force: but the executive proceeds to execute it—the good citizen denies its validity; to whom must he look for relief? to the court, of course—the judiciary is his only shield in such cases. Lord Chief Justice Hobart supports the above doctrine by saying, that "even an act of Parliament made against natural justice, as to make a man judge in his own cause, is void in itself, for *jura naturæ sunt immutabilia*, and they are *leges legum*." Chitty denies the truth of this principle, and says that "in no case whatever can a



judge oppose his own opinion and authority to the clear will and declaration of the legislature. His province is to interpret and obey the mandates of the supreme power of the state." The last sentence would contain the truth, if the "supreme power of the state" were acknowledged to be, as it is, the moral, or natural, or Divine law. And, indeed, Blackstone contradicts himself on page 91, by saying, "if a Parliament will positively make a thing to be done which is unreasonable, I know of no power in the ordinary forms of the constitution that is vested with authority to control it." Above he says, such laws are without authority and binding force; if so, they are inoperative, and being resisted when their execution is attempted, the case would come before the judges, and they would be bound to declare the statute void. They could not by any means aid the execution of a law without obligatory force. With all due deference to the learned commentator, we must say, that in attempting to bolster the error we are combatting, he has thrown himself into a gross inconsistency. To pursue a straight course, a man must walk in the light of truth.

It is extremely difficult to provide adequate checks to legislative action, when government is not wholly built upon truth. Indeed this is impossible. Experience may convince the people of defects, and after a few centuries proceeding on a false principle, we may have a constitution of limitations and prohibitions too ponderous to be thoroughly studied by men of ordinary leisure. But start upon first principles and proceed according to the simplest truths, and the whole machinery of government will move on harmoniously without the necessity of providing against the enactments of certain statutes. The legislators would go up to the capitol, for instance, without a single check to restrain their action; suppose them corrupt; they may enact statutes immoral, and violative of private rights; but the citizen would appeal directly to the judges,—who should be educated and good men,—and they, acting according to their cultivated sense of justice, declare the statute immoral, and therefore null, and no harm is done! How simple is the reign of truth!—how complex that of error!

But, supposing the common doctrine to continue,—that the judiciary shall support all statutes not provided against by the written constitution,—let us proceed to notice the limitations and prohibitions recommended by Counsellor Hurlbut, for the better security of human rights.

Government tends to overaction; hence the proverb, "the world is governed too much." "The experience of men under most governments has hitherto presented an almost unbroken series of wrongs and oppressions." While smarting under the most grievous outrages, the people have sometimes demanded a



guarantee against their recurrence. This demand has been answered in some instances, by granting some protective statute or charter. "Thus, in mercantile language, the constitution becomes the ledger of the State in which all its political experience is fairly posted up. Something has been done in this way,—and the greatest part of these entries will be found in the American Constitutions; some of which are derived from our experience, and others from that of our British ancestors." Our author properly terms some provisions mere constitutional poetry,—calculated more to amuse than protect the people. "It is trifling with mankind to declare by the constitution that they shall not be deprived of their rights, 'unless by the law of the land,'—since it is by law or its mode of administration, that most rights are sacrificed. It is altogether too vague a prohibition which declares that 'cruel or unusual punishments shall not be inflicted,' since a man may be hanged for a petty theft, notwithstanding."

The conservative clauses in the American Constitutions provide, That rights shall not be infringed,—that trial by jury shall remain,—there shall be freedom of opinion,—the people may bear arms for defence,—the writ of *habeas corpus* shall not be suspended except in cases of insurrection or invasion,—no man shall be held for an infamous crime except on presentment of a grand jury,—every accused person shall be allowed counsel, witnesses, &c.,—no man shall be jeopardised in life or limb in a second trial for the same offence,—no man shall be compelled to criminate himself,—property shall not be taken except for public use without compensation,—there shall be freedom of speech and of the press,—in all prosecutions for libel the truth may be given in evidence; and the jury in such cases shall determine the law and the fact. The first clause of the last specification, we believe incorrect; for in prosecutions for libels the courts preclude the evidence of the truth of them, except where the matter spoken of is of such a public nature as to concern the people at large, and therefore should be exposed. In civil suits for private damage, the truth can be given in evidence. As to the jury, being the judge of both law and fact, it is a most remarkable provision of the Constitution of this State, that in all criminal cases the jury shall determine the law and the fact; though the jury generally acquiesce in the law as given them from the bench. "The States are prohibited by the Federal Constitution from exercising certain powers of sovereignty,—and they cannot coin money, emit bills of credit, make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex-post-facto law, or law impairing the obligation of contracts, or grant any title of nobility."

Counsellor Hurlbut thinks these limitations and prohibitions insufficient guarantees of individual rights. He asks the question—

Are the rights of man secure? In answer to this, he advances some powerful considerations on the injustice of our criminal jurisprudence. "Life, liberty, and reputation, are involved in the modes of inflicting punishment for criminal offences. These are the most sacred of human rights,—the question how far an offender may be curtailed or deprived of his enjoyment, though often discussed, has never been settled by the laws to the satisfaction of philosophic minds. The State has no more important duty than to determine its proper line of conduct in this respect,—and the leading principles of its criminal jurisprudence ought to be settled in its fundamental law. A barrier ought to be placed in the constitution against any injustice to a prisoner of state,—since the passions of mankind are apt to rage violently against him,—and while his case demands the most careful and tender consideration, the passions of the multitude may hurry him to destruction. \* \* \* The innocent and the insane have suffered on the gallows; and although this was not intended, yet the best men in society uphold the State in inflicting the punishment of death. It is unfortunate, said they, if any but the guilty suffer; but this punishment is rightful and necessary, and the State must be careful in determining the question of guilt. Now if it should turn out that this mode of punishment is neither rightful nor necessary, then the sooner a State abstains from the murder of its prisoners, and declares by its constitution that it will so abstain, the sooner will it approach the standard of rightful government."

Our author proceeds to speak of the word *punishment*,—that it conveys a wrong idea of the procedure which a State may take against violators of the law. It imports vengeance,—security from further wrong by disabling the offender,—terror,—and, sometimes, (but some would not allow the glorious word in their definition,) reformation. Reformation is the only true object of punishment;\* but this is the least considered in our criminal jurisprudence. Some say justice is its essential element; this may be so in the administration of Omniscience, but not in that of man, who is so imperfect, and unable to determine the *desert* or demands of justice. The business of society is to take charge of dangerous persons, and endeavour by all possible means to do them good,—to reform and make them good citizens. This is the true principle, and observe how beautiful is its operation. All young offenders, who have been injured by neglect, would be taken and sent to school under State supervision, and thus be reformed; while, under the present erroneous system, they receive, in part, the compassion due their youth, and are generally sent

\* See articles "Criminal Jurisprudence," and "Capital Punishment," of this Number.

abroad to increase their depravity and continue their depredations: or if punished, they are, nine cases out of ten, made worse. Does not any one see that a true theory would render human rights more secure? In gross crimes, few of the guilty are punished. The sympathies of mankind are against the law's cruelty, and many are acquitted and encouraged to prey upon their fellows; the law, too, gives them the benefit of every doubt, and what lawyer cannot make out a doubt to the satisfaction of most juries; the plea of *insanity* also liberates nearly half of our most dangerous persons. The plea of insanity is founded in truth, and can be rightfully plead in most cases, but it should not discharge the prisoner at the bar; it should put him where he can have proper treatment. All wrong-doers are more or less insane; that is, the rebellious passions are too strong for the moral governing power; there is such a want of equilibrium in the mental forces, as to produce such gross unsoundness as may be termed insanity. What is wanted, is *discipline*; and this, society should provide.

Under a true system, none would be sent back upon the community in their moral debasement; but they would be detained for instruction. The duty of juries or courts would be to determine whether the offender before them has exhibited such a course of conduct as to be absolutely a dangerous man; if found so, he is detained. This course would harmonise with the public sympathy and sense of justice, and there would be no hesitation in sending a dangerous person where he could be benefitted. Therefore human rights would be ten-fold more secure. But from the gallows, and our present mode of penitentiary punishment, good Lord deliver us! The principles here laid down are God's truths, and the sooner they are met by those who think them errors, the better for society. They must be effectually opposed, or they must be adopted in our political philosophy.

Mr. Hurlbut has briefly but powerfully discussed the above views, and concludes, 1. That the life of every person should be declared inviolate under all circumstances by the constitution; 2. That our criminal jurisprudence should be reformed.

He next speaks of the enjoyment of religious opinions. "The sense of religion is innate in the human mind,—or, in other words, man is a religious being by the very constitution of his nature." The religious sentiment is seated in veneration, which, when seconded by large faith and hope, give an emphatically religious character. When these are moderate, and the moral sentiments are strong, the man will not manifest so much religious devotion, but will be strictly moral. When they are strong, and the sense of justice and benevolence weak, he may be both religious and dangerous; that is, he may be "Godward strait, but manward crooked." Such persons are denounced as hypocrites, while

those who want religious feelings, but practice every social virtue, are vilified with the opprobrious epithet, infidel.

The faculties given to man by his Creator must be used. They must have free course; and those who insist upon restraints to their virtuous exercise, or would discredit, or in any manner disfranchise a person for believing as God made him to believe, is the most dangerous infidel we have,—he is an infidel both to God and man. Hence, government should not interfere with the religious views of the people in any manner; either to prevent those who disbelieve in a God or future state of punishment from testifying in courts, or in making clergymen ineligible to office, as is most foolishly done by most of our constitutions. How ridiculous is such a provision as this: "And whereas, the ministers of the Gospel are by their profession dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the Gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to or capable of holding any civil or military office or place within the State." This is as much as to say to the clergymen, you are good men, holy men, but we believe you dangerous, and you are forbidden every place of trust where you can do any damage. They have the same rights that other men have, and such provisions are insulting, degrading, and tyrannous. A few clergymen would do no harm in our legislative bodies, but much good in preserving decorum. They were true patriots during our revolution, and many fought valiantly.\*

Most of our constitutions make some provision for general education. It is the duty of the State to provide for the good education of every child of the State, and the constitution ought to make it obligatory upon the Legislatures to see it done. Mr. Hurlbut, however, thinks the whole matter should be left to each district. Unless the State does her duty as she ought, we would say also, leave the subject with the people in their primary capacity. In this State, the provisions for general instruction are a farce. Vastly more would have been accomplished, had the State let the matter entirely alone. There is little prospect of a better state of things, as long as party instead of public good is the watchword. Were the people thrown upon their own responsibility, they would discuss the subject of education, and better appreciate its importance. Hence, they would do something worthy the mind they possess. How is it now, while the State

\* Rev. Thomas Allen, who was at the battle of Bennington, under Gen. Stark, was asked if he killed any one. He answered, "he did not know, but observing a flash often repeated in a bush hard by, which seemed to be succeeded each time by fall of some one of our men, he leveled his musket, and firing in that direction, put out the flash."

assumes the responsibility? Why, in many large districts a school is kept as long as the public money will pay the teacher at ten or twelve dollars salary, or if they should resolve upon longer terms, the directors must canvass the district of from sixty to one hundred scholars, and get at least twenty pledged to attend, for if the school should be small at first, the people fear the school bills, and keep their children at home. This, too, in OHIO! let it be known.

Mr. Hurlbut insists also upon limiting the expenditures of a State to its absolute necessities. This would prevent public debts, unless the people should authorise them. This could be done by submitting all proposed expenditures, beyond government expenses, to the votes of the people. The people are not bound to pay any taxes, except for their proper protection. They should therefore authorise all expenditures beyond this. Such a provision has passed the House of Assembly of New York, and has been incorporated in the Constitutions of the new States.

Another constitutional limitation contended for by our author is, that no retroactive laws, such as the Bankrupt law, shall be enacted, and also a provision against the change of remedies for enforcing the collection of debt. It is a prohibition of the United States Constitution, that no State shall pass any laws impairing the obligation of contracts. The courts have decided that laws which affect the remedy for breaches of contract, do not come within the prohibition. The effect of this is to render a claim worthless, if the legislature should choose to impose such difficulties in the way of collecting debts by suits, as to oblige the creditor to undergo trouble and expense equal to the value of the debt. All laws which render a claim less valuable than when the contract was made, are as much against the spirit of the prohibition as though they were aimed directly at the obligation itself. But the courts have determined otherwise, and hence the necessity of further constitutional limitation.

We here close this review for the present. Many important questions have been very briefly noticed, but which will be more thoroughly in another form hereafter.

In the next Number of the Journal, we shall consider Mr. Hurlbut's very interesting views on the Elective Franchise, and the Rights of Women. Each paper we design to be complete in itself. No one can charge us with continuing articles from one Number to another. We follow the book in this series of articles, because it treats of subjects we wish to discuss, and raises important questions we wish examined.

## CAPITAL PUNISHMENT.

Dr. Cheever and Prof. Lewis have recently entered into co-partnership for the purpose of defending the "death penalty." Perhaps a stronger firm could not easily be formed. The senior member is distinguished for his theological learning, and the junior, we understand, is a lawyer with (what is unusual) a "tincture of sacred science." What ought not such an alliance accomplish? Pity they had not associated with them an M. D., for then they would not only have proved the justice of capital punishment from God's law, and man's law, but also from Nature's law as written in the human constitution.

Space forbids our examining the recent efforts of this firm as written out in a book of 365 pages, but we will mention some of its points.

1st. The object of punishment is not reform, but the infliction of pain according to "desert."

We say the *only* object of punishment is reform. Neither man nor society has the right to do any thing but good to a human being. The laws are not all written in the statute-book, and yet punishment follows all disobedience whenever it would result in benefit. God is the author of all law, and his punishments on earth tend to reformation, and nothing else. Violation of law has brought misery into the world, but the result is, improvement in the knowledge of laws which govern us, conformity thereto, and consequently, redemption from the penalties of disobedience. We are thus led to study and elevate ourselves. Benevolence is the foundation of all punishment; it seeks only the good of the offender.

2d. Society has the right of self-protection, and the death-penalty is one of the most effectual means.

We grant that society has the right to protect herself; but it should adopt the proper means. It should discharge its duty to the young in giving them sufficient moral force to resist temptation. Her duty is a condition precedent, which must be performed before obedience can be demanded. Ignorance and erroneous culture are the parents of crime, and must be overcome by society; else she is the first aggressor, and the crimes committed by those she has wronged, are the penalty. Instead, then, of destroying the murderer, society should put him where he can be properly instructed.

3d. The adjustment of the penalty according to the enormity of the offence, demands capital punishment; or, in other words, murder rises so far above all other crimes as to demand a punishment that stands out from all others in severity.



How is murder shown to be the most enormous crime? That crime is the most enormous which produces the most injury. The injury produced by any offence depends upon the character and influence of the man committing it; therefore, as Dr. Cheever is a man of great consequence in the world, and professes piety, one of his sins may be more injurious than a murder committed by a desperate man. His example is copied, and perhaps many a young man is looking to him and justifying follies which debase the mind and ultimately develope the character of the murderer. Hence, the enormity cannot be estimated by any earthly tribunal. If Dr. Cheever will tell us how the amount of guilt can be determined, he will greatly strengthen his argument. Guilt depends upon conscience—conscience depends upon culture, and culture depends upon society. Because the court and jury have no criterion by which to adjust the penalty according to the crime, we oppose all punishment except for the good of the offender. Society herself becomes the aggressor when she goes beyond the bounds of desert. Who will say that a person with a bad organization (which he has got from his parents, and for which he is not responsible,) deserves death for acting out the impulse of his constitution? Who will say that a person who was wrongly trained in his youth when he was helpless, deserves death for the legitimate consequences of his education?

4. The "divinest faculty" of our nature demands death for murder.

We deny that the "divinest faculty" suggests pain as a punishment for any crime no matter how horrible. Cheever says the opponent of capital punishment himself, forgets his morbid sympathy for the criminal when he beholds him mangling the fair image of the Creator, and cries out "fiend, demon," declaring hanging too good for him. Had the Dr. looked at this case a little longer he would have detected revenge as the cause of this change of feeling. The victim had offended the murderer, and the murderer offends the spectator. The murderer gets revenge by killing with his own hands, and the spectator calls upon society to gratify his revenge by hanging the murderer. This revenge Dr. Cheever calls the "divinest faculty;" where did he study theology? We thought benevolence was the "divinest faculty." Jesus illustrated the divinest faculty when he prayed "father forgive them for they know not what they do," as he hung upon the cross between two thieves.

5. Capital punishment increases our estimate of human life, and improves the conscience of the people.

Here are two more false positions. Does not the Dr. know that the example of the government exerts great influence upon the public mind, especially in a Republic? Does he not know that society, by the very act of taking the life of one of its mem-



bers, manifests to the world the low estimate of the individual man—of human life? Life is esteemed sacred by those who best know its value, and did the government properly appreciate it, no one would be capitally punished for any crime. She should say to her subjects that there is one right, at least, beyond our reach,—that, for the public good, restraints in the exercise of every other right can be imposed, but life is of so sacred a character that no power can rightfully take it away but He who gave it. Would not this example on the part of the government be healthful in its influence? Would not the citizen also be led to a higher estimate of life, and shrink back at the thought of destroying it? But, do you say that it is the regard which government has for human life that induces her to hang the murderer in order to deter others, and prevent him from killing again? We say, if this be the reasoning of government, her logic is false. She mistakes the means. Extreme violence never restrained the violent passions of the base. All history shows that where there has been most cruelty in the executive arm of the government, there has been the most desperation among the people. Who, that understands the nature of the mind, does not know that deeds of blood always have a pernicious influence? They are the food of the destructive propensity already too strong for the public good. The more a base man sees of violence the more violent he will be. On the contrary, the more peace and quietude he sees around him—the more mercy he beholds, the more gentle and virtuous will he become. It is the meat and the drink of the destructive mind to behold the shedding of blood and hear the groans of the dying. Young Spencer of McKenzie notoriety, found his chief delight in witnessing scenes of blood; this is the case with every desperado.

But do you say that death is the “king of terrors,” and of all things, the most feared, therefore where it is known that death is the inevitable penalty for murder, villains will be cautious in taking life, and hence, it is a safeguard? We reply that fear has little influence with those disposed to kill. Their moral forces are too weak to restrain passion, and where reason sits unstable on the throne, the unbalanced mind does not “stop to reason” or “count the cost,” when excited. The passions are then supreme; they “will have free course” and be gratified. Hence it is useless to talk of the fear of death as a restraint. When man loses himself and becomes a beast, he fears no more than a beast. Instead of restraining men from the commission of crime, executions increase it. Let any one refer to his own experience:—Did you ever know of one execution in any community which was not soon followed by another? Did you ever hear of an act of state-murder in which were not enacted many scenes of brutality? Did you ever observe one iota of that solemnity due

the awful occasion, to prevail among the assembled crowd? No, sir,—men go to see a fellow hung to gratify their base passions, and on such occasions, feel like committing some bloody deed themselves, rather than deriving a lesson from the spectacle.

We said above that life is the gift of God, and He alone can take it away: Does the objector say that all other rights are the gifts of God also, and by the same logic man cannot take away the liberty of the offender? We answer that the cases are not parallel. Society can restore liberty, but she cannot relume the lamp of life. An innocent person is hung and an infinite injury done. The liberty of an innocent person is restrained, but society can reinstate him and repair the injury.

6. The great argument of this firm is drawn from Scripture. "Whoso sheddeth man's blood, by man shall his blood be shed." This language was addressed to Noah, and is claimed to be of binding obligation upon all mankind in all time. Our first remark will be that God is represented as governing the world himself or by inspired men. This of course remedied the defects of human judgment mentioned above in determining the real desert of the offender. We shall say nothing against God's governing in his own way. We cannot tell the reasons which existed at that day for the death punishment. We should judge that in those primitive times the moral sense was desperate, for God seems to have repented himself that he had made man, and accordingly drowned every soul except righteous Noah and his family. Whatever may have been the condition of the first generations, we know that man now is infinitely superior in a moral point of view.

Again—we object to the obligation of this law upon us, because of its general terms. It does not regard any circumstances that may attend the killing of a man; whether by accident, in self-defence, in the impetuosity of passion, or with coolness or deliberation. But "whosoever sheddeth," &c. We must obey a Divine command to the letter. If Dr. Cheever claims the right of drawing inferences, and says that it was not designed to shed the blood of one who had, by sheer accident, shed the blood of another, then we shall claim the same right of construction, and say that it only conveys the right to man of self-defence; that is, *whatsoever* would shed man's blood, by man (the same man) shall its blood be shed. For the use of "*whatsoever*," instead of "*whoso*," we refer to the verse preceding. The same original word means either *whatsoever* or *whoso*. This reasoning is just as logical as the Doctor's, though we spurn it. If it is binding upon us, we insist upon its literal observance. No lawyer in all time has tolerated the abandonment of the strict letter of a criminal statute. Not only so, but we insist upon recognizing the "Avenger of blood," that is, the Scriptural obligation of the

brother or nearest kinsman or friend of the murdered man to pursue and slay the murderer, regardless of judge or jury. Look at the verse preceding this command to Noah. "And surely your blood of your lives will I require; at the hand of every beast will I require it, and at the hand of man; *at the hand of every man's brother will I require the life of man.*" The defect we have mentioned seems to have been remedied in subsequent legislation for the Jews; for cities of refuge were provided whither every murderer could fly from the avenger; that is, the victim's kinsman. If he was found to have killed his neighbour, accidentally, or without previous hate, he was to be delivered into the hands of the avenger. Let us have the "cities of refuge," if we must have the old law.

Thirdly—we go against mangling the divine code. If all but one feature be discarded, and that a totally impracticable one, as we have shown, we insist upon abandoning the whole and adapting the law to our condition. We hang a man only for cold-blooded murder; the command in question makes no exception for cases of accident; so that we have the same as abandoned it, and all this effort of Cheever & Co. is for nought. An eye for an eye, foot for foot, tooth for tooth, burning for burning; we insist upon all, or demand the privilege of abandoning the authority. But Tayler Lewis, Esq., says that these modes of punishment we are authorized to change, because an equivalent can be rendered. We deny it. What can compensate the loss of a nose to a handsome man or woman? We have no business thus to trifle with scripture. But this is an *infidel* age, and Cheever & Co. are proving themselves the rankest of infidels. Why do you not come up to the work, and go for the Bible and the whole Bible? Look at our laws of divorce. Jesus said, "whosoever shall put away his wife, save for the cause of fornication, causeth her to commit adultery; and whosoever shall marry her that is divorced, committeth adultery." About nine different causes for divorce are allowed in our infidel courts, and yet the Dr. is mum; and we will venture he has married more than one who has been divorced for anti-scriptural causes, and therefore he is a base violator of scriptural commands. But it is useless to pursue this argument. The fact is, Jesus opened a new and brighter era. He came not to destroy the law or the prophets, but to fulfil; that is to fulfil the predictions of the holy men who had in times past foretold his appearing. His was a spiritual mission. All violence was to give place to the winning grace of kindness. He spoke to the great soul of man, and demonstrated its capacity to rise aloft to God and glory. The world had been in a course of severe discipline for four thousand years. Many Johns had appeared, crying in the wilderness of sin and misrule, prepare a way for the Lord. Man had now attained sufficient development

to receive the new and more spiritual Revelation. It came, heralded by the soul cheering announcement of "peace on earth and good will to men." "Old things are passed away and behold all things are become new." The first teachings of the Celestial Messenger were the most powerful evidence of his Divinity, for no man had ever spoken like him. Love God with all thy heart, soul, mind and strength, and thy neighbour as thyself. On these two commandments hang all the law and the prophets. Love your enemies, do good to them that curse you, resist not evil, &c., embody the spirit of the glad tidings. Who sees not the difference between the war and violence of the old Testament, and the peace, kindness and love of the new? This is not disparaging the Old, for we must believe it was as well adopted to the ancients as the New Testament is to us.—What we insist upon is the adoption, cultivation and living out the full beauty of the Diviner Spirit. Seizing upon an unfortunate man who has been an object of abuse from his infancy, and hanging him between the heavens and the earth like a dog is anti-christian and barbarous. We are called upon to treat him kindly, and throw around him all the appliances of reformation.

We did not intend to give a full answer to the Book before us, or thorough argument against the death penalty, but merely to fill the space we have.

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### SEVERAL MATTERS.

**WESTERN HISTORICAL AND LITERARY UNION.**—We cheerfully give place to the following suggestions from Wm. B. Fairchild, of Xenia, concerning an enterprise which we believe would prove of incalculable benefit to the West. Were we to make any amendment to the title we should insert the word Scientific, so that it would read "*Western Historical, Literary and Scientific Union.*" We believe the importance of scientific acquisitions is not properly appreciated. Science, without a doubt, possesses more attractions, interest and benefits for her true votaries than any other department of learning. It embraces a knowledge of the universe of matter and mind—all that can lead to a true knowledge of Him from whom are all things. Even in the field of Romance she presents facts immeasurably more startling than the most wonderful conceptions of man.

What are the benefits which would attend the success of this enterprise?

1. It would give the West independence and consequence in the world of letters. We can be subservient to others as long as we

choose,—we have the power of standing on our own feet and demonstrating to the world that the physical resources which God has placed within our reach are not superior to our mental and spiritual,—that if we have the most fruitful valley upon which the sun ever shone, we have also the most abundant means of attaining, as a people, a mental supremacy. This point is discussed below.

2. Such a Union would excite inquiry. This is what we want.—Let the people zealously begin to inquire and they are rapidly in pursuit of all the good which can be attained on earth. This enterprise being the people's—whose money will support it and to whom all the profits will accrue—a general interest will be manifested in all its operations. It will send its books, at cost price, into every vicinity where there are subscribers; these books will be read with pleasure, and made the theme of conversation among all. By this means individuals will be induced to promote the advancement of every thing that concerns the best interest of mankind.

3. It would supply good books at a cheap rate. It will make the people their own publishers, and consequently the profits of the publisher and the retail merchant, will not come from the pockets of the purchaser. Every subscriber will get nearly double the amount of his subscription each year.

4. It would encourage talent and study. As we are now situated, the talent of the West is concealed from the view of the world. Being poor, our men of originality are compelled to pursue some employment inconsistent with study and energetic thought to make a living. Instead of this, they should be so situated as to be enabled to think, speak and write for the public good. They should have time to investigate the great problems of the age, and work out their solution.—They have, in all past time, directed and lead the people to every good they have achieved, and the more they are enabled to do, they more rapid will be our advancement.

5. It would promote the cause of education in the West more than all other means combined. The influence of such an institution sending into every part of the country its inspiring power, cannot, in this respect, be estimated.

In establishing the "Union" no risks will be "run" by its subscribers. If the shares be three dollars, it will require at least one thousand subscriptions to warrant a commencement. But one third of each share need be called for until its feasibility is tested, and a showing is made of its expenditure. The expense of putting the project into execution will be trifling, for men can be found to supervise its operations, at least for the first year, who will not exact a burdensome salary. After its operations shall become extensive and complicated, of course a reward can be afforded to those who may be selected to manage the concern.

Books the people must have; they are as essential to their true existence as bread. It is an object to get them for as little money as possible; consequently it is desirable that they should become their own publishers. With prudent management the "Union" could not fail of success.

\* \* \* \* "The fear of Western publishers to take in hand the productions of Western writers, will have, for years, a stupifying tendency upon the talent of this portion of the country; and especially will it prove a serious drawback upon the department of western historical literature. It is a fact, too notorious to need an argument, that western literature, be it of equal or even superior merit, does not make its appearance in the Eastern literary market upon a footing of equality with that of the East: nor will it, so long as the sectional spirit, which now exists, can throw obstacles in its way. How is this to be remedied, and how are all these obstacles in the way of rewarding merit among our *own* people, to be overcome? I know of but one way—and that way, from the little consideration I have given it, strikes me as one well calculated to effect the desired object. It is, by the establishment of a 'WESTERN HISTORICAL AND LITERARY UNION,' composed by gentlemen in all parts of the West, who shall become members by the payment of a small sum, annually—say three or five dollars—which money shall be expended in the purchase of manuscripts and the publication of two or more Western works, annually,—one historical, and the other in some other department of literature, and a copy of each work to be forwarded to every member of the society. Aside from the original works thus published, the 'Union' might go back and bring up the old published records of the Mississippi Valley—such, for instance, as De Soto's Expedition; the Journal of Joliet and Marquette, Tonti's Expedition, La Salle's Journal, Father Hennepin's Work, and other old historical journals necessary for the formation of a perfect and full history of the great North American Valley, and at this time difficult to be obtained. In the lighter departments, the 'Union' might republish the full works of all the poets of the West, and the more important productions of the prose-writers—and all these works could be printed, accompanied, like the Aldini works of old, with the imprint of the 'Union,' in such a style as would render them the very gems of each member's library. With a society of a thousand members, at five dollars each, the 'Union' could publish not less than four valuable works, annually; and here you see the advantage of it to the member,—he would get, aside from the all-important fact of the encouragement rendered to the literature of the West, four works, which, in any other way, would cost him not less than ten dollars, for five dollars—and he would get beautiful and authentic copies.

"The centre of all this could be at Cincinnati, under the immediate control of one man, who might be guided by a board of directors resident there. The 'Union,' of course, should be regularly organized by the election of officers, etc. and the offices of Secretary and Treasurer could be entrusted to a gentleman who should devote his whole time, if necessary, to the interest of the society, for a reasonable compensation.

"I will not now enter into any details to show you, friend H., the feasibility of this plan, as I think it must at once commend itself to your better opinion, as it appears to me it should to that of every other man of good sense. There might, possibly, be difficulties in the way of commencing, but they are such as would immediately vanish



before a little energetic action. I wish to see it in successful operation, more particularly for the purpose of holding out some inducement to men who are qualified (and we have them,) to give us the history—not only the general, but the particular—of the West; including Indian history, pioneer sketches, border incidents—all that go to make the sum total of one romantic but truthful story! You know this is a work which should be done soon;—it should, indeed, have been done long since—as every day important facts are being lost, by the death of the early dwellers of the West. I have not time to say more to you on the subject, at present; but I should be greatly pleased to have you give your views at length in the pages of the Journal. Will you do so?

**ULTRAISM.**—Persons who complain of ultraism should remember that it is the harbinger of every thing better in the Future. All the great truths that are now so generally cherished were once ultraisms, as much scorned as they are now adored. When inquirers cease to be ultra all hope of earthly progress will die away. Those who broach new doctrines, ask only candid discussion, free from the pernicious influence of prejudice and preconceived opinions. If, therefore, any one feels conscious of the error of any doctrine promulgated in the Journal, he is earnestly solicited to state his argument in its strongest light, and we will welcome it with pleasure.

**SPIRIT OF DEMOCRACY.**—It is gratifying to every American to know that the spirit of his political institutions is most emphatically impressing itself upon the whole civilized world. Aristocracy and distinction are falling before it; it is rapidly solving the great problem of human existence. We have not read any thing with greater pleasure for a long time than an extract from Lord Morpeth's recent speech in the House of Commons, in which he remarks:

"But I feel that we cannot confront the example of general ease and comfort which prevail among the American people. (Hear, hear.) We cannot confront the growing aspiration of our own people—we cannot confront the onward tendencies of the age in which we live, if we do not consent to administer and to work out our aristocratic notions in a more democratic spirit. (Cheers.) Notwithstanding that implied dissent, I contend that no aristocratic institutions which rest on exclusive privileges will be able to stem the current of the age. (Cheers.) I contend that there is no aristocratical body which rests on especial interests will escape its certain downfall." (Cheers.)

Morpeth is of the aristocratic body; but if he has not been forced to declare himself thus by fear, his aristocracy can be tolerated. Such men alone can save England from the most melancholy catastrophe that ever befell a nation. She is trembling, but truth will save her people.

**G. W. CUTLER.**—We are happy to learn that the writings of this poet are about to be published in a permanent form by an Eastern publisher. Besides the pieces he has given to the public we learn he has two or three elaborate poems of a high order of excellence. He has made many decidedly good "hits" in the selection and treatment



of his themes. This is the true index of genius. We know the public will be delighted with his productions, and equally pleased with his personal acquaintance. He is of good size, dark complexion, black, flashing eyes, of charming conversational powers, and a perfect gentleman in his deportment.

**NORMAL SCHOOLS.** We have before us a report of the Normal School experiment in New York. The institution was established by a law passed in 1844, at Albany, for the purpose of qualifying teachers of Common Schools. It is a valuable institution. There, the reason of things is taught—first principles attended to—the mind and the means of its development, investigated. The report says that many students who had been teaching for many years, “had studied philosophy, whose *spelling was deficient*; and others had studied Algebra, who found it very difficult to explain intelligibly the mystery of *borrowing ten and carrying one* in simple subtraction.” The third term of the school is now in progress. The first term opened with 29 students; but during the term the number reached 98. The second term opened with 170 pupils, but before its close there were 185. Of these, 119 were “State Pupils,” and received \$1,00 each, per week. The third term commenced with 180, but soon numbered 197, of whom 122 were “State Pupils.” New York is doing great things in the cause of education. But where is Ohio? From the Common School system it would be difficult to determine whether this State is giving another generation to the world or not. But what signifies intelligence as long as we are first in raising wheat, and second in the manufacture of pork and lard oil?

**A. B. JOHNSON.** This gentleman, of Utica, New York, has our thanks for books forwarded to us. One entitled “Thoughts on the necessity for, and action of the approaching State Convention,” shows that the people of that state are about to attempt something in their sovereign capacity, in the cause of reform and progress. The other, entitled, “Johnson’s Lectures to the Young,” breathes a beautiful spirit, and gives a high exemplification of the author’s excellence of character.

**AMERICAN QUR. JOUR. OF AG. AND SCIENCE.** The first number of Vol. 3, of this valuable work we have received. It is published at Albany, at a cheap rate. It contains 160 pages and a portrait of Gov. Wright. Terms, \$2 per annum.

**OUR JOURNAL.** This is the second No. of the “Journal and Review.” We think no one can object to it on account of deficiency of matter for the price. Some may object to its leading doctrines; but let us ask, who wishe to read statements of their own views alone? All who think are presumed to have settled their opinions; and what benefit is derived from disquisitions in their defence, embracing thoughts which he has long since conned over and over? What we all want, is, something we have not before thought of, which is calculated to lead us into a new train of reflection. We hold ourselves responsible for the doctrines we promulgate, and any one is at liberty to call us to an account for them. We believe the Journal possesses sufficient variety to make it interesting.